

**MINUTES**  
**OF THE**  
**ENVIRONMENTAL PROTECTION COMMISSION**  
**MEETING**

**AUGUST 20, 2001**

**WALLACE STATE OFFICE BUILDING**  
**DES MOINES, IOWA**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairman Townsend at 10:00 a.m. on Monday, August 20, 2001, in the Wallace State Office Building, Des Moines, Iowa.

### MEMBERS PRESENT

James Braun  
Lisa Davis Cook  
Lori Glanzman  
Darrell Hanson  
Kathryn Murphy, Vice-Chair  
Gary Priebe  
Kelly Tobin  
Terrance Townsend, Chair

### MEMBERS ABSENT

Rita Venner, Secretary

### ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Add: Appointment – 1:00 Mike Blaser, Sunrise Dairy
- Add: Appointment – 2:00 Donald Flater, Bureau of Radiological Health

*Motion was made by Lori Glanzman to approve the agenda as amended. Seconded by Kelly Tobin. Approved as amended.*

APPROVED

### APPROVAL OF MINUTES

*Motion was made by James Braun to approve the minutes from the July 16, 2001 EPC meeting as presented. Seconded by Lisa Davis Cook. Approved as presented.*

APPROVED

### DIRECTOR'S REPORT

Director Jeff Vonk said he would like to comment on an issue that has been discussed in prior meetings dealing with air emissions from confined animal feeding operations (CAFOs). This issue involves a petition for rulemaking submitted by Iowa Citizens for Community Improvement (Iowa CCI) that has been tabled as well as a proposal from the Department that was also tabled. He said he had sent a letter to both Iowa State University, School of Agriculture and the University of Iowa, Department of Public Health asking them for their input and guidance as to what the Department should with regard to air emissions from CAFOs, any

standards that should be implemented, and which chemicals ought to be regulated. Copies of the university's responses have been given to the Commission. They have proposed that they put together an expert panel of six faculty members from each university as well as twelve external experts both national and international to do a complete literature review on the subject and then hold a three day workshop to develop a report and recommendations to the department. Their proposal is to have that report and recommendations to him by prior to February 1, 2002. Based on that response he recommends that the Commission leave the Department and ICCI proposals on the table until such time that he receives the report.

He said at the last meeting there was a discussion of moving the Commission meetings around the state which would allow Commissioners to spend sometime looking at the facilities or issues in the field that may be relevant and help them in their position as Commissioners. He said he has received two offers from people willing to host the meeting, one is here in Des Moines at the Des Moines Water Works inviting the Commission to tour their facility, and the second offer was from the John Deere Corporation to meet in Waterloo and to tour their Waterloo facility, which would allow discussion around some manufacturing air quality issues that the Commission looks at. John Deere is looking at a major expansion of that facility so there would be opportunities to talk about what that would mean and how our department will interact with them in regard to permits.

Kelly Tobin asked if any of the 12 experts would be farmers.

Jeff Vonk said he was unsure who would be chose to serve on the expert panel.

Lisa Davis Cook said she is happy that two of the State Universities are willing to become involved in this.

Jeff Vonk said he met with a group of citizens at a meeting organized by Iowa CCI in Humboldt last week. He said there is real concern by a lot of citizens who have been adversely affected by construction of the facilities. There is a lot of pressure from that side of the issue to move forward with a rule but in order to do this right, in a defensible way, the Department needs the input of the academic community. He said the Department has been working on a literature review, Iowa CCI has done an extensive literature review, and the Environmental Protection Agency has recently completed an extensive literature review and has promised to make that available to the group at the university. Because of this he said he is hopeful that there will not be a need to spend an inordinate amount of time rereading the literature.

#### **FY `01 QUARTERLY FINANCIAL STATUS REPORT**

Linda Hanson, Division Administrator for the Administrative Services Division presented the following item.

Attached is the operations' FY `01 fourth quarter financial status report by division. This report contains actual expenditure information for FY `01 through June 30, 2001. The balances shown reflect June 30 balances. Both revenues and expenses will continue to occur between June 30 and August 30, 2001. All divisions currently have positive cash balances with the exception of

the Parks, Recreation and Preserves Division and the Environmental Protection Division. A final Financial Status Report will be provided to the Commission once the fiscal year has been closed.

**Iowa Department Of Natural Resources  
Financial Status Report**

<b>TOTAL DEPARTMENT THROUGH JUNE 30, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
<b>RESOURCES</b>			
General Fund	\$17,842,133	\$17,663,693	\$178,440
Park Officer Retirements	\$0	\$0	\$0
Federal	\$15,152,546	\$12,786,491	\$2,366,055
Administration Fund	\$445,000	\$427,000	\$18,000
Conservation Fund	\$4,673,311	\$4,671,311	\$2,000
Other Funds	\$14,384,937	\$12,077,398	\$2,307,539
Groundwater Fund	\$3,881,415	\$3,051,806	\$829,609
Fish and Wildlife Trust Fund	\$26,371,240	\$25,734,671	\$636,569
<b>TOTAL RESOURCES</b>	<b>\$82,750,582</b>	<b>\$76,412,370</b>	<b>\$6,338,212</b>
<b>EXPENDITURES</b>			
Personnel	\$48,398,379	\$47,333,943	\$1,064,436
Extra Help	\$3,494,937	\$3,147,344	\$347,593
Support	\$16,270,133	\$15,679,505	\$590,628
Contracts	\$11,191,047	\$7,037,704	\$4,153,343
Equipment	\$3,396,086	\$3,213,874	\$182,212
<b>TOTAL EXPENDITURES</b>	<b>\$82,750,582</b>	<b>\$76,412,370</b>	<b>\$6,338,212</b>

<b>ADMINISTRATIVE SERVICES THROUGH JUNE 30, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
<b>RESOURCES</b>			
General Fund	\$1,643,486	\$1,591,797	\$51,689
Federal	\$833,486	\$744,430	\$89,056
Fish and Wildlife	\$2,129,741	\$2,130,882	(\$1,141)
Groundwater Fund	\$235,004	\$199,515	\$35,489
REAP	\$666,337	\$613,047	\$53,290
Marine Fuel Tax	\$253,533	\$315,347	(\$61,814)
Infrastructure	\$222,765	\$211,561	\$11,204
Other	\$640,675	\$598,479	\$42,196
<b>TOTAL RESOURCES</b>	<b>\$6,625,027</b>	<b>\$6,405,058</b>	<b>\$219,969</b>
<b>EXPENDITURES</b>			
Personnel	\$4,564,990	\$4,551,263	\$13,727

Extra Help	\$205,836	\$194,390	\$11,446
Support	\$1,482,301	\$1,478,038	\$4,263
Contracts	\$40,000	\$3,425	\$36,575
Equipment	\$331,900	\$177,942	\$153,958
<b>TOTAL EXPENDITURES</b>	<b>\$6,625,027</b>	<b>\$6,405,058</b>	<b>\$219,969</b>

<b>DIRECTOR'S OFFICE THROUGH JUNE 31, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
<b>RESOURCES</b>			
General Fund	\$682,651	\$604,950	\$77,701
Federal	\$542,333	\$532,642	\$9,691
Fish and Wildlife	\$359,830	\$358,689	\$1,141
Administration Fund	\$445,000	\$427,000	\$18,000
Groundwater Fund	\$130,661	\$61,983	\$68,678
Other	\$254,530	\$254,630	(\$100)
<b>TOTAL RESOURCES</b>	<b>\$2,415,005</b>	<b>\$2,239,894</b>	<b>\$175,111</b>
<b>EXPENDITURES</b>			
Personnel	\$1,332,519	\$1,312,382	\$20,137
Extra Help	\$86,799	\$93,404	(\$6,605)
Support	\$942,274	\$744,918	\$197,356
Contracts	\$0	\$0	\$0
Equipment	\$53,413	\$89,190	(\$35,777)
<b>TOTAL EXPENDITURES</b>	<b>\$2,415,005</b>	<b>\$2,239,894</b>	<b>\$175,111</b>

<b>ENERGY AND GEOLOGY THROUGH JUNE 30, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
<b>RESOURCES</b>			
General Fund	\$2,004,683	\$1,863,480	\$141,203
Federal	\$2,983,348	\$1,964,981	\$1,018,367
Oil Overcharge	\$238,183	\$148,111	\$90,072
Bonding Programs	\$216,728	\$173,136	\$43,592
Groundwater Fund	\$243,984	\$213,174	\$30,810
Other	\$189,405	\$85,899	\$103,506
<b>TOTAL RESOURCES</b>	<b>\$5,876,331</b>	<b>\$4,448,781</b>	<b>\$1,427,550</b>
<b>EXPENDITURES</b>			
Personnel	\$3,249,972	\$3,097,545	\$152,427
Extra Help	\$36,918	\$17,920	\$18,998
Support	\$610,225	\$411,071	\$199,154
Contracts	\$1,749,070	\$780,390	\$968,680
Equipment	\$230,146	\$141,855	\$88,291



<b>TOTAL EXPENDITURES</b>	<b>\$5,876,331</b>	<b>\$4,448,781</b>	<b>\$1,427,550</b>
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<b>ENVIRONMENTAL PROTECTION THROUGH JUNE 30, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
<b>RESOURCES</b>			
General Fund	\$5,212,753	\$5,284,221	(\$71,468)
Federal	\$8,591,756	\$7,635,156	\$956,600
Air Contaminant Fees	\$6,575,485	\$5,883,686	\$691,799
Groundwater Fund	\$678,471	\$649,102	\$29,369
Water Protection Fund	\$2,206,131	\$1,409,691	\$796,440
Operator Certification Fees	\$344,541	\$151,070	\$193,471
Manure Certification Program	\$77,825	\$62,392	\$15,433
Stormwater Permit Fees	\$564,438	\$445,051	\$119,387
Well Contractor Fees	\$59,714	\$39,877	\$19,837
Water Supply Lab. Cert. Fees	\$149,446	\$94,676	\$54,770
<b>TOTAL RESOURCES</b>	<b>\$24,460,560</b>	<b>\$21,654,922</b>	<b>\$2,805,638</b>
<b>EXPENDITURES</b>			
Personnel	\$12,126,695	\$11,888,123	\$238,572
Extra Help	\$0	\$0	\$0
Support	\$3,214,777	\$2,972,281	\$242,496
Contracts	\$8,005,052	\$5,437,311	\$2,567,741
Equipment	\$1,114,036	\$1,357,207	(\$243,171)
<b>TOTAL EXPENDITURES</b>	<b>\$24,460,560</b>	<b>\$21,654,922</b>	<b>\$2,805,638</b>

<b>FISH AND WILDLIFE THROUGH JUNE 30, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
<b>RESOURCES</b>			
Fish and Wildlife Trust Fund	\$23,881,669	\$23,245,100	\$636,569
Corps Condition 5 Funds	\$388,656	\$335,018	\$53,638
<b>TOTAL RESOURCES</b>	<b>\$24,270,325</b>	<b>\$23,580,118</b>	<b>\$690,207</b>
<b>EXPENDITURES</b>			
Personnel	\$16,125,680	\$15,905,249	\$220,431
Extra Help	\$1,086,067	\$960,818	\$125,249
Support	\$5,362,672	\$5,427,589	(\$64,917)
Contracts	\$625,516	\$336,162	\$289,354
Equipment	\$1,070,390	\$950,300	\$120,090
<b>TOTAL EXPENDITURES</b>	<b>\$24,270,325</b>	<b>\$23,580,118</b>	<b>\$690,207</b>

<b>FORESTRY THROUGH JUNE 30, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
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<b>RESOURCES</b>			
General Fund	\$1,815,460	\$1,665,134	\$150,326
Federal	\$473,000	\$473,000	\$0
Forestry Enhancement Fund	\$304,957	\$291,476	\$13,481
Forestry Receipts	\$932,000	\$1,210,000	(\$278,000)
Other	\$93,500	\$76,388	\$17,112
<b>TOTAL RESOURCES</b>	<b>\$3,618,917</b>	<b>\$3,715,998</b>	<b>(\$97,081)</b>
<b>EXPENDITURES</b>			
Personnel	\$2,431,194	\$2,396,496	\$34,698
Extra Help	\$141,096	\$193,799	(\$52,703)
Support	\$936,509	\$1,051,142	(\$114,633)
Contracts	\$8,500	\$6,309	\$2,191
Equipment	\$101,618	\$68,252	\$33,366
<b>TOTAL EXPENDITURES</b>	<b>\$3,618,917</b>	<b>\$3,715,998</b>	<b>(\$97,081)</b>

<b>PARKS PRESERVES AND RECREATION THROUGH JUNE 30, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
<b>RESOURCES</b>			
General Fund	\$6,483,100	\$6,654,111	(\$171,011)
Park Officer Retirement	\$0	\$0	\$0
Federal	\$282,364	\$171,357	\$111,007
Park Receipts	\$3,741,311	\$3,461,311	\$280,000
Infrastructure	\$127,053	\$75,039	\$52,014
Other	\$173,422	\$138,069	\$35,353
<b>TOTAL RESOURCES</b>	<b>\$10,807,250</b>	<b>\$10,499,887</b>	<b>\$307,363</b>
<b>EXPENDITURES</b>			
Personnel	\$5,532,108	\$5,379,692	\$152,416
Extra Help	\$1,773,987	\$1,525,757	\$248,230
Support	\$2,959,869	\$3,074,827	(\$114,958)
Contracts	\$208,777	\$198,951	\$9,826
Equipment	\$332,509	\$320,660	\$11,849
<b>TOTAL EXPENDITURES</b>	<b>\$10,807,250</b>	<b>\$10,499,887</b>	<b>\$307,363</b>

<b>WASTE MANAGEMENT THROUGH JUNE 30, 2001</b>	<b>FY 01 BUDGET</b>	<b>FY 01 ACTUAL THRU JUNE</b>	<b>01 BUDGET LESS ACTUAL 01</b>
<b>RESOURCES</b>			

<b>Groundwater Fund</b>	<b>\$2,593,295</b>	<b>\$1,928,032</b>	<b>\$665,263</b>
<b>Federal</b>	<b>\$1,401,759</b>	<b>\$1,225,433</b>	<b>\$176,326</b>
<b>Groundwater Professional Regis.</b>	<b>\$46,216</b>	<b>\$58,246</b>	<b>(\$12,030)</b>
<b>Hazardous Waste Remedial Fund</b>	<b>\$391,623</b>	<b>\$482,566</b>	<b>(\$90,943)</b>
<b>Waste Tire Permitting</b>	<b>\$2,000</b>	<b>\$2,212</b>	<b>(\$212)</b>
<b>LUST Insurance Fund</b>	<b>\$75,000</b>	<b>\$75,000</b>	<b>\$0</b>
<b>Land Recycling Fund</b>	<b>\$31,600</b>	<b>\$27,756</b>	<b>\$3,844</b>
<b>Waste Volume Reduction Fund</b>	<b>\$76,000</b>	<b>\$8,559</b>	<b>\$67,441</b>
<b>Waste Tire Program</b>	<b>\$59,674</b>	<b>\$59,908</b>	<b>(\$234)</b>
<b>TOTAL RESOURCES</b>	<b>\$4,677,167</b>	<b>\$3,867,712</b>	<b>\$809,455</b>
<b>EXPENDITURES</b>			
<b>Personnel</b>	<b>\$3,035,221</b>	<b>\$2,803,193</b>	<b>\$232,028</b>
<b>Extra Help</b>	<b>\$164,234</b>	<b>\$161,256</b>	<b>\$2,978</b>
<b>Support</b>	<b>\$789,256</b>	<b>\$534,305</b>	<b>\$254,951</b>
<b>Contracts</b>	<b>\$526,382</b>	<b>\$260,490</b>	<b>\$265,892</b>
<b>Equipment</b>	<b>\$162,074</b>	<b>\$108,468</b>	<b>\$53,606</b>
<b>TOTAL EXPENDITURES</b>	<b>\$4,677,167</b>	<b>\$3,867,712</b>	<b>\$809,455</b>

Linda Hanson said this report is the status as of June 30, 2001, however claims will continue to be paid for this fiscal year through July and August so a final status report will not be available until the September meeting. There are a couple divisions that are carrying a deficit, the largest being in the Parks, Recreations Areas, and Preserves Division. The Department is facing many challenges for this Division due to a \$500,000 cut in funding, a decrease in the amount of revenues that were anticipated from the conservation fund because of the rain in April and May, and a decrease in sand and gravel permits. She said on the bright side receipts from the Forestry Division came in much higher than expected. In order to have a balanced budget at the end of the fiscal year there will need to be transfers from one appropriation to another. She said if they are unable to balance this year's budget through internal transfers the Department will be forced to go to the Department of Management for a transfer of funds from other Departments.

Jeff Vonk said part of the answer to the cash-balancing problem is the redesign effort currently underway. He said he is reasonably optimistic that the Department will be able to get the budget problems under control especially in the Parks Division. Through redesign and the flattening of the structure he is hopeful that the Department can refocus their available resources to the field offices that provide services to and interact with the public.

<b>INFORMATIONAL ONLY</b>
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#### **FINAL RULE – CHAPTER 102, PERMITS (ADD 102.16)**

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The Commission is requested to approve proposed rules under Chapter 567-102 "Permits" to incorporate a new rule 102.16 "Emergency Response and Remedial Action Plans" that is applicable to all sanitary disposal projects.

Iowa Code section 455B.306(6) "d" requires sanitary disposal projects to file an Emergency Response and Remedial Action Plan (ERRAP) in conjunction with the issuance, renewal or reissuance of a permit for a sanitary disposal project. This provision of the Iowa Code had not previously been fully implemented by administrative rules.

Under threat of intent to file citizen legal action against the Department in late January 2001 to insure adoption of implementing rules, the Department commenced rulemaking. Proposed new subrules under 102.16 that provide direction and guidance on developing ERRAP documents were developed by staff in conjunction with the ISOSWO Technical Committee, representing a majority of stake holder disposal project officials and consultants. The ISOSWO Board approved the proposed rules in April 2001.

The NIA concerning the proposed 102.16 subrules was EPC approved by the EPC on May 21, 2001. The NIA was published in the IAB on June 13, 2001.

A public hearing was held on July 5, 2001. Only two individuals representing the regulated community and public attended and presented comments. The comments received indicated support of the proposed ERRAP subrules under 102.16. However, it was requested that clarification information be included to more specifically identify the disposal project types that the ERRAP rules are applicable to.

The comments have been addressed in the attached Responsiveness Summary. The following minor rule changes have been made to incorporate the applicable project type descriptions, as requested:

**102.16(2)** Applicability. The requirements of this rule apply to the owners or operators of all sanitary disposal projects that are permitted under 567-102.2(455B). Permitted project types include: municipal and industrial waste landfills; construction and demolition waste landfills; coal combustion residue landfills; waste storage facilities; waste processing facilities; recycling and material recovery facilities; transfer stations; composting facilities; incinerator facilities; regional collection centers; land application facilities; and any facility deemed necessary to have a project permit under sanitary disposal project definition. Centralized regional collection center ERRAP documents shall specifically address the ERRAP requirements for each of its satellite facilities. These rules are not applicable to waste tire management facilities.

At this time, the Commission is requested to approve the proposed rule modifications and approve the adoption and filing of the new rules under 567 – IAC 102.16 "Emergency Response and Remedial Action Plans".

**ENVIRONMENTAL PROTECTION COMMISSION [567]  
Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.304, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 102, "Permits," Iowa Administrative Code. Iowa Code section 455B.306(6)"d" requires sanitary disposal projects to file an Emergency Response and Remedial Action Plan in conjunction with the issuance, renewal, or reissuance of a permit for a sanitary disposal project. That provision of the Iowa Code has not previously been implemented. The proposed amendment provides guidance and direction on development of an Emergency Response and Remedial Action Plan. The technical committee of the Iowa Society of Solid Waste Operations (ISOSWO) provided assistance in development of the proposed rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 13, 2001. A public hearing was held in Des Moines on July 5, 2001. Notices of the public hearing were sent to a variety of stakeholder groups, individuals, organization, and associations. Two individuals provided comments during the public comment period and these comments have been addressed in a responsiveness summary. A copy of the responsiveness summary may be obtained from the Department of Natural Resources.

Based upon public comments, the adopted rules have been modified from those published under the Notice of Intended Action. The applicability of the rule was clarified. The specific change made in response to comments received is detailed in the responsiveness summary.

These rules were adopted by the Environmental Protection Commission on August 20, 2001.

These rules are intended to implement Iowa Code section 455B.306(6)"d".

These rules will become effective on October 24, 2001.

(A copy of the final rule is available in the Department's Record Center.)

Liz Christiansen said Chapter 102 involves the permitting of the sanitary disposal projects in Iowa. This rule change adds section 102.16, which will be applicable to all sanitary disposal projects. The Code of Iowa directs the Department to develop a rule regarding this plan. The Department worked with the Iowa Society of Solid Waste Operations to draft this rule and two people attended a public hearing held on July 5. As a result of that public hearing a clarification was made as to whom the rule applied. If passed the rule would become effective on October 24 and the first plans would be due to the department on December 31.

(A copy of the Responsiveness Summary is available in the Departments Record Center.)

*Motion was made by James Braun to approve the final rule as presented. Seconded by Kathryn Murphy. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**PUBLIC PARTICIPATION**

Chairman Terry Townsend called for public participation at 10:25 a.m.

Erick Davidson from Iowa Citizens for Community Improvement (Iowa CCI) said he was there to discuss the air quality rules for factory farms. He said Iowans are calling for action from the DNR and from the EPC. The involvement of the University of Iowa and Iowa State in reviewing the literature and reporting back to the DNR is great, but there is no reason why that should postpone, delay, or limit public participation in this process. It is the public who is being affected by these confinements and their emissions and they are the ones who need to be involved in this rule making procedure. There is more than enough science out there right now to begin the involvement of the public in this process. You can see the public is interested by the meetings that have gone on around the state, and by the 6,000 signatures on the petitions that the EPC received calling for air quality rules. He said Iowa CCI feels that the Department proposed to hold public hearings to help make these rules and that needs to move forward. He distributed a handout and displayed a board that listed several studies that had been conducted and gave a brief description of each. He said for ten years the science has been there. The Iowa CCI and the citizens of the state want the DNR and the EPC to move forward with public hearings to get involvement on the rule making process as was proposed months ago.

(A copy of the handout is available in the Department's Record Center.)

Father Marvin J Boes, Director of Diocesan Peace and Justice Action Network in the Diocese of Sioux City said there is a lot of deep concern in the 120 parishes located in the 24 counties of Northwest Iowa. He said it seems there are some serious moral issues involved. It is the job of the Government to protect and promote the common good of the people. Any industrial animal confinement operation, in its construction or use, harms or pollutes the ecological system and the environment, endangering the health of the people of the local community. It produces more manure than the land of the farmer can handle. He said the Director of the Land Stewardship Program in the State of Iowa considers it necessary for families to be on the land and to work with that land in order to guarantee that we will continue to have a vital local ecological system. It follows that a government charged with the protection and promotion of the common good of the local community has a responsibility to take action through laws and regulation as needed to assure that industrial animal confinement serve and not violate the common good, the shared ecological system and environment. In Iowa the State Government has this authority and responsibility since it has not given this authority to local government. He said the Commission has a role in state government in acting on this matter.

Leland Little, said he is a County Supervisor in Taylor County, a member of Iowa CCI, and President of a local group called Iowans for Quality Life, which has over 200 members in Taylor County. Air quality is something that is on his mind 24 hours a day. He is a bee keeper by

profession and in 1995 he built a new honey processing facility as isolated from neighbors as he could make it. By this time next year he said there will be eight hog confinement facilities within a 2 mile radius of the honey processing facility at all points of the compass. Right now his family never leaves the house with the windows open but his honey house is open to the atmosphere so it is constantly in an atmosphere of hog manure. Someday, he suspects, someone will open a jar of honey and it will smell like hog manure, and they will know where it came from. He said he couldn't move. Three years before they started construction the people building the facilities knew he was there and admitted he would be a problem but that did not make any difference. He said many of his neighbors have lived there all of their life, when these buildings came they did not oppose them because they had raised hogs all of their lives. This summer when the temperature was in the 100's and the air did not move he asked one of his neighbors how they were able to survive. The neighbor told him that they only open the door to get in and out of the house and they could not believe how bad the odor was because they had raised hogs all of their lives but had never smelled anything like that. Three days later he saw the same neighbor and was asked to find the man a lawyer because he was desperate and had to do something. He said the air quality is bad now but only half of the buildings are occupied, by this time next year it will be twice as bad. The owners of the facilities have no concern for the well being of the residents. He said he felt the DNR should move forward with the public hearings. Public hearings and scientific research can be held at the same time and he feels that it is a stall tactic to try to wear them down and to give the large corporate farmers time to expand. He said there are still a few family farmers raising hogs in Taylor County but they are not going to last very long.

Scott Smith said at some point in the future, proposed rules on Chapter 118, Appliance Demanufacturing rule will be coming to the Commission. In a similar fashion to what had been discussed earlier regarding emergency response plans, the wording of the proposed rules were developed by a task force. He said he feels the task force did an excellent job of developing proposed language to deal with the demanufacturing of appliances in a safe manner that will protect the environment of Iowa. Recently these proposed rules have come under criticism from certain sectors of industry and DNR has been preparing a regulatory impact report. He said, on the behalf of Boone County and Iowa Society of Solid Waste Operations, he supports the language as written. He said they believe it does a good job and in many cases catches up to the reality that is already occurring out there.

Brief discussion followed regarding the air quality issue that had been tabled in June.

Jeff Vonk said he would like to respond to the comments about holding the public hearings on CAFO rules, the purpose of public hearings during the rulemaking process is to gathering information that would improve, change, ratify, and certify the proposed rule so it would not make sense to hold hearings on a rule that does not exist. Therefore waiting until the Department comes forward with the recommendation for a rule or not to have a rule would be the appropriate time for a series of public hearings.

Darrell Hanson said when he made the motion to adopt Director Vonk's recommendation in June his concern was that from a procedural standpoint the Department would be holding hearings on what to do about the health hazards from these facilities while they were waiting for information

as to whether or not there was a health hazard. He said if they already know the answer then they should not be bothering Iowa State and University of Iowa, and if they don't know the answer then they shouldn't be holding hearings as if they do.

Terry Townsend said this issue could be discussed further in open discussion.

#### **FINAL RULE – CHAPTER 61, WATER QUALITY STANDARDS (TRIENNIAL REVIEW)**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

Commission approval is requested for the attached Final Rule adopting: (1) Class A (primary contact recreation) use designations for eight waterbodies or waterbody segments; (2) a Class C (drinking water) use designation to Mystic Reservoir in Appanoose County) and (3) numerical criteria for endosulfan, bromoform, chlorodibromomethane, chloroform, and dichlorobromomethane. The proposed final rule also replaces existing language exempting drainage ditch maintenance from the antidegradation policy with language stating the Department will not establish enforceable obligations under the policy for ditch maintenance.

These changes are being proposed to address the EPA's disapproval of various modifications made to the WQS from July 1992 through January 1999 and to avoid federal (EPA) promulgation of WQS amendments for Iowa.

Also attached is the Public Participation Responsiveness Summary summarizing and responding to comments received during the public comment period. Comments were received from thirty-six persons and organizations and a petition with 48 signatures was also received. Most respondents objected to the proposed removal of the exemption for drainage ditch maintenance activities from the antidegradation policy.

It is possible that comments from drainage interests and other persons or organizations may be made at the Commission meeting regarding the ditch maintenance issue. Many respondents felt the language should not be changed (i.e., leave the exemption), but the EPA has made it clear they would promulgate to remove the exemption if the Commission did not remove it.

As discussed in the Responsiveness Summary, the Commission has four options to deal with the drainage ditch maintenance issue. These are listed below.

1. Adopt the changes as proposed, eliminating the ditch maintenance exemption.
2. Leave the exemption in place.
3. As recommended by the IFBF, move the exemption statement to Chapter 60 –Definitions or address the exemption in a rule-referenced document.
4. Adopt the changes as recommended by Department staff.

The draft Final Rule attached incorporates option 4.



(A copy of the draft rule is available in the Department's Record Center)

Mike Valde said this item deals with EPA's disapproved water quality standards that had been submitted by the Department to the EPA during the 1990's. EPA disapproved these standards in 1999 and told the Department that if they are not remedied EPA will promulgate water quality standards themselves. He said this involves eight water bodies that had been at one time classified as class A for primary water contact and a class C water body that had been designated for drinking water and later removed. EPA's standards are, if water quality standards are to be lowered or protections under quality standards are to be removed, a use attainability analysis must be done. The rule also deals with the adoption of certain numerical limits for certain pesticides and chemicals, and the antidegradation policy, which includes the language that maintenance of drainage ditches would be exempt under this policy. This exemption was disapproved by the EPA. The Department came up with the four options listed above and Mr. Valde said the Department is recommending the fourth option, which is to adopt the changes as proposed, which eliminates the drainage ditch maintenance exemption all together. He said another option would be not to make any changes and have EPA promulgate the rules. He said there had been suggestions from the Farm Bureau Federation that the Department move the exemption to a different part of the rules. The Department feels that regardless of where the language is placed it will still be viewed by EPA as a water quality standard and would not remove their objections. After reviewing all of the comments the Department came up with recommended language that says essentially the department will not establish enforceable obligations under the standard antidegradation policy for activities related to drainage ditch repair and maintenance.

Terry Townsend asked in essence doesn't that exempt them.

Jack Riessen said they are essentially doing the same thing with different language that hopefully EPA will agree to. He said the exemption had been put into the rules at the request of the Commission.

Susan Heathcote, Acting Executive Director of Iowa Environmental Council said they provided written comments supporting the removal of the exemption for drainage districts repair and maintenance. They based their support on the clean water act and the need for all water bodies in Iowa to be included in the water quality standards including the antidegradation policy. Activities that affect drainage districts do affect water quality in Iowa not only in the drainage ditches themselves but water bodies that are down stream from the drainage ditches. She said they feel very strongly that Iowa should not providing blanket exemptions or blanket nonenforcement policies. She acknowledged the importance of drainage maintenance and that a number of landowners depend on drainage districts for their farmland. She quoted the antidegradation policy and indicated how it applied to drainage ditches. She said she serves on a public advisory committee that is working on water quality standards with DNR but this issue was never brought before that group. The reason given by DNR was because these rules were required by EPA. She said this is possibly one of the reason others from the environmental

conservation community did not speak out about it during the public comment period of the rulemaking.

Gary Priebe asked if Ms. Heathcote had any documented cases since 1992 where there has been degradation to the waters of the State of Iowa from drainage ditch repair or maintenance.

Susan Heathcote said she did not have any examples, but felt that perhaps DNR would be better suited to answer that question.

Gary Priebe said in 1992, when the Commission approved these rules, they were told that a drainage district could repair its ditch because it was paid for by the landowner and was his property. However he is not allowed to discharge bad water into the waters of the State. For this reason he said he sees no reason to put additional regulation on the drainage districts.

Susan Heathcote said they are recommending that the DNR go with the original language in the proposed rules, which would remove the exemption and then if necessary the public advisory committee could discuss the matter further.

Gary Priebe asked why she wanted to remove the exemption when there have been no documented cases of pollution or antidegradation since 1992. He said the only thing it would accomplish is to require a permit to fix something that isn't a problem.

Susan Heathcote said just because she isn't aware of any problems doesn't really change the position that they are taking because it is not her responsibility to go out and investigate these things.

Roy Overton said he was a member the Isaak Walton League and a volunteer lobbyist for their state division. He said the Isaak Walton League is part of the Iowa Environmental Council. Therefore when the Iowa Environmental Council addressed the Commission in July they spoke for all of the members of the Iowa Environmental Council which includes the Isaak Walton League. He said this issue was a matter of Federal law and needed to be followed regardless of whether or not the repairs have polluted the water or not. He said he does not understand the DNR suggesting that they pass this rule and then not enforce it.

Debbie Neustadt, Executive Committee of the Iowa Environmental Council and teacher at East High School asked the EPC not to exempt repair and maintenance of drainage districts from the antidegradation policy of the State of Iowa and not to adopt language that establishes a policy that the Department will not enforce the repair and maintenance of the drainage as a violation of the antidegradation policy. She said drainage districts in Iowa are very powerful, they are grass roots, local and care about the land and what they do. The EPA publication Introduction to Water Quality Standards issued in September of 1988 states, "An antidegradation policy is to conserve, maintain, and protect existing uses and water quality. The antidegradation policy is to ensure that designated uses are to be maintained. Each state is to adopt an antidegradation policy and implementation method. States are not necessarily required to incorporate antidegradation policy in their water quality standard regulations. This policy however must be formally adopted and be specifically referenced in the water quality standard regulation so that the relationship

between the standards and the policy is clearly understood.” A document published by the Clinton Administration states “Antidegradation involves a two step process, the first step is a screening determination of whether an activity will lower the water quality of the receiving water. The simple introduction of an additional pollutant does not necessarily constitute the lowering of water quality. The screening determination involves a pollutant and site specific scientific consideration of factors such as type and amount of additional pollutant and the duration and spatial extent of the change. When an activity does lower water quality it triggers the antidegradation review process”. The State of Iowa described the denial letter from EPA as cryptic. She said she does not believe EPA is trying to conceal anything and its direction is only puzzling and mysterious if you are not implementing the antidegradation policy. The EPA is asking the DNR to decide if an activity applies to the antidegradation policy and to enforce not exempt activities from this policy. She said she believed the DNR’s concern that EPA will not accept the enforcement exemption of the antidegradation policy is correct. She said in response to some of the comments in the responsiveness summary the State’s antidegradation policy does not take into consideration the economic impacts of polluting our waters in order to exempt them. The Federal Antidegradation Policy and method requires protection of high water quality unless the state makes a finding that lowering water quality is necessary to accommodate economic and social development in the area in which the waters are located. She said she believed the State could regulate and repair the maintenance of drainage districts and they do not have to be exempt from the antidegradation policy.

James Braun asked Ms. Neustadt what her main concern was.

Debbie Neustadt said her main concern is that the drainage districts are full of silt and that impacts water quality.

John Torbert, Executive Director of the Iowa Drainage Districts Association (IDDA) said their governing board met last Wednesday in Pocahontas County. They reviewed the staff recommendations relative to this issue and the decision of the board was to ask the Environmental Protection Commission to retain the existing exemption as stated in the State Rules and Regulations. He said they do appreciate the efforts of the staff to reach a middle ground on this issue but they feel that the addition of the no enforceable obligation language does not meet their concerns and does not go far enough. He said from their perspective when you look at the need to change policy and the need to change existing regulations the first question to ask is why, what is driving it? Usually there is something wrong but in this situation there is no evidence that there are significant problems. He said the IDDA believes that the EPA is on shaky ground because they failed to act within the 60 to 90 day time period. In addition the change in administration at the EPA could change EPA’s stand on this issue. He said they believe the Farm Bureau’s recommendation of the retaining the existing language but moving it to a different part of State regulation may have some merit because if you look at the EPA directives there is some question as to why they were saying the degradation language should come out. One of the things they site is that perhaps that language is in the wrong section.

James Braun asked what the drainage districts concerns were in the removal of this exemption.

John Torbert said initially the suggested change would probably have minimal impact, however it is a change in policy and it doesn't mean that it will stay that way in the future. They believe in order for the Department to change the rule there needs to be clear and convincing evidence other than EPA coming in and saying you have to change it.

James Braun asked what Mr. Torbert, as the director of IDDA, saw as the potential water quality impacts from repair and maintenance.

John Torbert said there is no doubt that there are water quality impacts and they are working on trying to mitigate those impacts.

James Braun asked what those impacts might be.

John Torbert said it would depend on the individual circumstances. The reason they are concerned about having the exemption removed is because they feel it opens the door for additional regulation, additional red tape, additional bureaucracy, and additional problems with respect to what they feel is necessary to keep drainage districts properly functioning.

Don Etler, former director of the IDDA and consulting agricultural engineer said he works with drainage districts and with landowners on wetland and water quality regulation compliance. The primary concern for the drainage ditch maintenance, and the reason the exemption was put in place by the Commission eight years earlier is the obvious impact upon aquatic life. Aquatic life is one of the six protected uses, uses that cannot be degraded, in the water quality standards. Obviously a drainage ditch that has been allowed to mature over forty years will develop aquatic life in the bottom and depending on the size of the stream may have quite a varied fish population. When the drainage district comes in to legally repair the drainage ditch it degrades the aquatic life. He said there is concern that although there is an exemption in the Federal law now for ditch maintenance, that law has been up for renewal for eight years and someday Congress is going to address it. If they remove that exemption, the Federal government will be coming to the State of Iowa and asking if the ditch maintenance meets water quality standards, if the answer is that it will degrade aquatic life then a Federal permit will be denied and the maintenance will not be done. He said in 1994 a drainage district applied for a permit from the Corps of Engineers to clean out sandbars from their ditch. They did not need a permit because they were exempt, but they did apply and the Corps of Engineers asked the DNR for water quality standards certification. The DNR in April of 1994 denied that certification with the following statement, "The existing surface water uses and the level of water quality necessary to protect the existing uses will not be maintained and protected if the project was completed as proposed. It is likely that the proposed project will create an overall degradation to the existing aquatic population and diversity." He said there are certain issues that arise that demand a fundamental judgment on which way to go and they feel this is one.

Jeff Vonk asked if there is any analysis done with regard to off site impacts such as sediment that may go to a larger body of water that is regulated.

Don Etler said that drainage ditches accumulate sediment because they are flat, they age and fill and you have to clean them out periodically. The only involvement the drainage districts would

have in that is where habitat for the Topeka Shiner, the endangered species minnow, is found down stream. In that case they would be required to dig sediment traps or construct silt fences to try to control the downstream discharge of sediment.

Jeff Vonk asked if there had ever been a Topeka Shiner located in a ditch.

Don Etler said to date there has been none found in the drainage ditches but some have been found down stream.

Jeff Vonk said if the Clean Water Act changes in terms of whether there is or isn't an exemption the State would then be required to change in response to it because Federal law supercedes State law.

Don Etler said he would like to tie together the issues of the Prairie Creek classification that EPA is forcing the Department to change and the drainage ditch maintenance exemption. He is a drainage district engineer and the engineer for the first two drainage districts that were established for the purpose of closing agricultural drainage wells. The wells in Wright County happened to sit adjacent to A.J. Decoster's chicken and hog operations. The State of Iowa cost shared money to drainage district in order to construct alternative outlets so that drainage wells could be closed. A 404 Permit from the Corps of Engineers was needed but they received a great deal of resistance from the EPA. The EPA was out to protect the graded-farmed wetlands, which Mr. Decoster dumps 100's of pounds of manure on every year. The EPA was leaning on a rule that had been written in 1984 which says you cannot drain a wetland until you go through a process of proving you cannot avoid draining it. With the antidegradation requirement EPA is requiring that the DNR change the classification of Prairie Creek. Prairie Creek was incorrectly labeled Class A several years ago due to a clerical error. DNR corrected the classification but EPA says that they have to change it back to Class A. The Clean Water Act law that states EPA is required to deny the water quality standards within 90 days. If the EPA does not respond within 90-days the standard is considered good. DNR Staff formally submitted changes with the proper certifications to the EPA in January of 1999, EPA did not respond until July 1. He said it appears that if EPA has a rule they like they will follow it and enforce it beyond its legal limits but if they have a rule they don't like they will ignore it. The EPA failed to comply with the Clean Water Act with their response. He said the Alaska rule did not address the 90-day provision of the law and they feel EPA abused their authority to reopen water quality standards review with the Alaska Rule. He said the IDDA submitted a legal opinion from Roger McCown with Kansas State addressing that particular issue. He asked the Commission to stand up to the EPA.

Lannie Miller, Palo Alto County Supervisor said currently if someone wants to clean a drainage ditch, it takes two to three years before it can be done. He said drainage ditches were put in place to drain the land so that it can be farmed. The United States government poured a lot of money into those drainage districts. He said they need the exemption because it is a nightmare to work through the government regulations now. He said he has been a supervisor for seven years and has learned a lot about drainage ditches. The principal is still the same, it is to drain the land in order to farm it. He asked the Commission to stick to their guns and maintain the exemption.

Dale Brentnall from Ames, Iowa said we make thing complicated by trying to dodge issues and responsibilities of stewardship to the land. He said he is a member of the Isaak Walton League, has served on national committees and has seen drainage and wetland removal in Florida, California, Arizona, Maryland and Iowa. He said he is glad that we have the Clean Water Act and the EPA because they at least give direction as to what should be considered. Drainage ditches are nothing but manmade conduits that carry water from the land into ditches, streams, rivers and lakes. Drainage ditches also serve as a major outlet for field tile. Drainage tiles are a conduit used to drain wetlands and prairie potholes, which lower water tables and channel a rapid runoff of soil. The soil carries nitrogen, animal waste, sewage overflows to Iowa creeks, streams and rivers. Thus making a drainage ditch a short circuit to our ground water systems. He said this is an issue that needs to be studied and dealt with.

Chris Gruenhagen from the Iowa Farm Bureau Federation said they do support farmers being able to maintain and repair their drainage ditches. She said another option would be -to table this issue to allow time for the IDDA, DNR and EPA to try to reach a decision.

Jeff Vonk asked if she was suggesting limiting the discussion to just the IDDA, DNR and EPA.

Chris Gruenhagen said she would include organizations such as the Iowa Environmental Council as well.

Steve Veysey, member of the Iowa Environmental Council and president of the Hawkeye Fly Fishing Association said he is glad to hear from the members of the Commission that they also care about water quality and not about water quality standards. He heard the question, "What are some of the water quality problems from drainage ditches," several times but had yet to hear a good answer from either group. It seems obvious that there is too much sediment and nutrients being brought into our surface waters and a lot of it comes from tile lines and from drainage ditches. He said it seems to him that too much water is being removed from the land too quickly. It is not that the land should not be drained for farming but care needs to be taken when moving it off the land. The large amounts of sediment in the water affects aquatic life, fishing and all aspects of recreation. The way drainage ditches are managed and maintained is a fair question for discussion and a lot of groups have an interest in that besides those who wish to drain the land as quickly as possible to farm it. He said it is possible that too much land is being farmed. There are areas where, when the water is removed from the land it should be allowed to filter through some areas that are currently being farmed, which maybe shouldn't be, to allow the nutrients and sediment to be removed prior to entering the surface water. He said the EPA has clearly stated that the drainage ditches are water bodies and the antidegradation policy does apply to all surface waters. The focus should now go to what is to be done with the antidegradation clause, it has been in the water quality standards since 1990 and implementation procedures have not yet been developed for it. Through these procedures the State can determine how antidegradation policy should apply to specific types of waterways, including drainage ditches. He asked that the Commission go back to the original notice of intended action language, which simply did not reference the drainage ditches in the antidegradation clause.

James Braun said he felt much of the things Mr. Veysey mentioned dealt with land management practices that causes water quality degradation. He said he agrees that land management

practices need to be considered but the item before the Commission now is ditch maintenance and repair, which doesn't have anything to do with land management.

Steve Veysey said he believes that it does, he said there was an question earlier that day asking if someone can point to an example where drainage ditch maintenance is having an effect on water quality. He said he has not surveyed the state but he does know of one. At Springbrook State Park there is a beautiful stream and a nature center, which is used by 100's of children each year to study aquatic life. Now there is a major drainage ditch maintenance and expansion project going on that will funnel the water directly into that creek. The bulldozer has come onto State property to expand the ditch but no representative of the State was invited to the drainage ditch commission meeting where these issues were voted on. People need to be somewhat careful of what they are doing with their drainage ditch maintenance. He said he felt the obvious solution at Springbrook was to set aside the last five acres as wetland to try to filter the water that is being drained off the thousand acres for the rest of the district.

James Braun asked if this is a new drainage ditch.

Steve Veysey said parts of it are new.

James Braun asked what Mr. Veysey's fear was for the creek from this drainage ditch.

Steve Veysey said he does not have all of the details on this project, as he was only a visitor to the park however there was a lot of concern expressed by many people about the impact this will have on the creek at Springbrook. There is already an increase of algae growth in the stream. If water is brought off the land more efficiently through these improved drainage ditches more sediment will be brought into the creek, as well as more nutrients. In addition the water velocity will become greater which will scour out the stream causing more erosion.

Terry Townsend said the Commission would break for lunch and reconvene at 1:00 p.m. at which time they will hear from the people who had scheduled appointments.

#### **REFERRAL TO THE ATTORNEY GENERAL**

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

Sunrise Dairy Farms, LLC (Benton County) – animal feeding operation.

Mike Murphy said the Department is requesting the referral of Sunrise Dairy Farms to Attorney General. Sunrise is a large confinement dairy cattle feeding and milking operation in Benton County near Blairstown. The facility was constructed last year at which time the owners did contact the Department prior to construction to seek clarification on permit requirements. They were told based on the fact that they were planning to dry handle the manure they fell below the threshold for requiring a construction permit but that they did need to submit a manure management plan. Around the beginning of 2001 investigations disclosed that they were unable to handle manure in the dry form and have had difficulties handling it since that time. Based on this new information they should have had a construction permit from the outset. The owners did construct facilities to try to gain a handle on it however they constructed an earthen manure storage structure that also should have had a permit. Sunrise applied for the permit after construction had begun but to date have been unable to obtain one. During the first part of the year there were issues concerning not getting permits that were required and the fact that their manure management plan was not updated. They also had used an uncertified operator to handle manure, and there were some stock piling issues. In addition to these violations there were two discharge incidents in July that resulted from a plugged water line, which caused water to enter confinement pits thus causing them to overflow. The discharges caused extreme pollution in the Coon Creek. Finally the company did not report the releases, as is required. He said he would like to correct one statement made in the litigation report. There are two other facilities located in the area with the name Sunrise, one being an ethanol facility and the other a beef cattle feeding operation. There does not appear to be a legal or ownership relationship between the dairy and the others but the dairy does utilize some of the byproducts from the ethanol plant in their feeding operation.

Gary Priebe asked Mike Murphy to clarify the matter of whether or not the facility needed a construction permit.

Mike Murphy said the facility had planned to handle manure in dry form therefore they had not needed a permit. However since they were unable to handle the manure in dry form the premise on which they didn't need a permit was no longer true.

Gary Priebe asked what was wrong with the facility constructing an earthen manure storage basin.

Mike Murphy said construction of an earthen manure storage basin required a construction permit, which they did not apply for. The facility has since submitted plans for a permit but there is a major issue of high ground water in the area and there is a question as to whether the capacity is adequate to store the waste they have.

Gary Priebe asked if the facility had known they needed a permit to build the storage basin.

Mike Murphy said the owners had discussed it with the field office and were told that the Department could not approve it. They did however stop construction once they were told by the Department to do so.

Kelly Tobin asked if there was any conflict with the ethanol plant being in the same vicinity.



Mike Murphy said no, in fact it is becoming a common practice for the ethanol plant and beef operations to be located near each other because the ethanol plant grain by products can be used as feed. .

Kelly Tobin asked what Sunrise Dairy needed to do to get into compliance.

Mike Murphy said that the facility needed to have both a short term and a long term plan for how they were going to handle the amount of manure they are currently generating.

Kelly Tobin said it appears there have been some spills that were not reported.

Mike Murphy said there had been two, the first in the first part of July and the second on the 12 of July. He said Sunrise has indicated that they have constructed some catch basins in the drainage path to try to avoid it from happening again.

James Braun asked if Sunrise had received a permit when they built the lagoon.

Mike Murphy said they still do not have a permit because of issues between the engineers.

James Braun asked if they filled the lagoon without a permit.

Mike Murphy said yes they had.

James Braun asked if they had an NPDES permit.

Mike Murphy said they did not but under the Department's policies they would not need one because they are not allowed to discharge at all.

Mike Blazer said he was there to represent Sunrise Dairy Farms in Blairtown, Iowa and that Mr. Bernard Minaberry, co-owner and manager of the dairy was also present. He said he wanted to confirm that Mike Murphy was correct when he said that Sunrise Dairy is not affiliated with either the Sunrise Ethanol Plant or Sunrise Bioethanol. He said the Commission had before them a request from the Department to refer the subject of four notices of violation to the Attorney General. He asked the Commission to deny that request and instruct the Department to handle these matters administratively. He said Sunrise began operations last fall and it became apparent last winter that the dry scrape system that had been originally designed for the dairy was not adequate for their operations. They have taken action since last winter to deal with the inadequacies of the current system while working to put in place a permanent system that is designed to deal with the manure that the operation generates. A number of the violations that were listed in the notices of violations relate to actions that the dairy has taken to avoid releases. Sunrise is currently working with the Department to address remaining issues within a reasonable time frame. He said he believes it is important to note that Sunrise has not been subject to date to even one administrative order from the Department. Notices of violation are issued by the Department's field offices and cannot be appealed. Historically the Department has followed a fairly predictable pattern. Its field offices will issue notices of violation to

someone that they believe is not complying with a rule. An operation may get one or more notices of violation particularly if the matter complained about is unrelated to prior notices of violation. After a certain number of notices of violation or for a more significant event the Department has historically issued an administrative order to the party with or without penalty. Typically, only if a producer continues to have problems after notices of violation and administrative order is the matter brought before the Commission for potential referral to the Attorney General. The Department's request as to Sunrise short circuits this pattern; it elevates earlier alleged notices of violation that themselves would likely have never gone to the Attorney General and combines it all into one package to be sent in. He said he believes that these matters can and should be handled administratively through the issuance of one or more administrative orders related to maybe the last couple of notices of violation. He asked the Commission not to refer the matter to the Attorney General and instruct the Department to issue one or more administrative orders that can be dealt with at the departmental level administratively. He said if the dairy continues to have a problem or there is an additional violation the record may support referral to the Attorney General at that time. He said since they have only received the notices of violation, some of which are duplicative due to two of the visits happening only one week apart, he does not believe that this matter is ready to go before the Attorney General for prosecution.

Kelly Tobin asked how the dairy planned to fix the situation of the dry scrape system that didn't work.

Mike Blazer said the dairy needs to figure out how to treat it as a wet system, which means spending a considerable amount of money to retro fit the barns. They will also be working with the Department over the next few months to get the remaining engineering issues addressed as to the structures that are in place and seek to have those permitted. The dairy is presently working on improved waste handling and are likely to have a liquid waste handling system in place within the next thirty days and hope to have all matters resolved by March 1, 2002.

James Braun said the common practice with dairy is that it takes three to three and a half acres of land per cow because it is a well known fact that there is a lot of manure generated from dairy. He asked how they could have been off so much in their design plans.

Mike Blazer said Sunrise Dairy believed they had a system that would properly settle out all solids creating essentially two waste streams, solid and liquid. They have approximately 3,200 acres under easement for land application so land the land application was never a significant issue. The fact of the matter is that their design does not separate the solids as well as it should so they were left with a less liquid waste stream than originally predicted.

James Braun said because they were using a dry system they were not required a manure management plan.

Mike Blazer said they were required to have one that was filed with the Department, it needs to be updated to reflect what operational experience has shown.

Lisa Davis Cook asked about Mr. Blazer's comment about the duplicative violations.

Mike Blazer said a couple of the violations were not the type that could be corrected in one week and the Department knew this. He said the April 6 notice of violation (NOV) was the initiation of construction without a construction permit and in the July 6 and July 19 NOV's both cite the use of a non-permitted lagoon.

Darrell Hanson said there were several conditions present that should have alerted the owners to the problem that was developing, he asked if the company took the initiative to contact the DNR when they realized that the manure was stockpiling and the spills had occurred.

Bernard Minaberry said the company had been in touch with the DNR and said he would like to give a little history behind this. The dairy was going to be a dry scrape system, which pushes the material out to the ends of the barns where there are pits. When it would rain the manure would become liquefied. He said everyone in the area wanted the manure so they piled the manure during the winter for those people until DNR told them not to. He said their plans included discontinuing the use of the pits on the outside of the barn.

Darrell Howell asked if Mr. Minaberry had worked with any local consulting firms.

Bernard Minaberry said they had hired an engineer from Ag Engineering and they assumed that he would know what he was doing.

Darrell Hanson asked Mike Murphy if all referrals end up in court.

Mike Murphy said most cases are resolved without a hearing.

Gary Priebe asked Mike Murphy why the Department decided to refer this case instead of handling it administratively.

Mike Murphy said the first notice of violation was referred for administrative action, the field office felt it was a huge operation and should have had a permit. However the violations came so quickly that the Department did not have time to issue an administrative order. When the discharges occurred in July the Department felt the case had escalated beyond the level that they could normally handle administratively.

Mike Blazer said the fact of the matter is that an administrative order is going to be dealt with at the department level. There are certain implications for referrals to the Attorney General's office under Iowa's chronic and habitual violator statutes, which provides a reason for a process that producers can understand. While the releases have occurred and the company has filed a report of releases for each of those incidents, those incidents have nothing to do with whether or not the earthen structures are permitted or not permitted, those discharges could have still occurred regardless of that issue. He said he felt it would be beneficial to producers in general as well as to the State to having a line of demarcation as to how people who have more than one problem are to be handled. He said receiving a series of NOV's, no administrative order, and then receiving a notice that they were being referred to the Attorney General for prosecution is perhaps not the best way to handle it. He said the first notice of violation, which involved no release and involved pretty minor technical violations, might or might not have resulted in an

administrative order. However because of the referral that notice of violation along with the other three will be part of the case if this is referred to the Attorney General. This elevates it from a NOV with no administrative order and no penalty to something that is now going to subject the producer, among other things, to prosecution by the Attorney General and will no doubt factor into the amount of any consent decree fine or anything else that is being decided on.

Jeff Vonk asked Mike Murphy if there was a concern on the level of the infraction versus the Department's ability to impose the proper level of fine through an administrative order.

Mike Murphy said the Department is limited to \$10,000 in an animal feeding operation case administratively and in light of the discharge violations this has gone beyond the scope of administrative action.

Mike Blazer said the Commission is evaluating the history in hindsight and had things been done differently the aggregate fine may or may not have been over the threshold. The company is not denying that there were a couple of minor releases but although there was some water quality impact there was no fish impact and they were promptly cleaned up by the company. In addition the company is now spending money to build secondary containment on both the east and west side of his barns to make sure that it cannot happen again.

*Motion was made by Darrell Hanson to go into closed session pursuant to Iowa Code Section 21.5 (1) (c) to discuss strategy with council in matters where litigation is immanent or in where its disclosure would likely prejudice or disadvantage the position of the government body in that litigation. Seconded by Lisa Davis Cook. Roll call vote was as follows: Lisa Davis Cook – Aye, Kelly Tobin – Aye, Darrell Hanson – Aye, Lori Glanzman – Aye, Kathryn Murpny – Aye, Gary Priebe – Aye, James Braun – Aye, Terry Townsend – Aye. Rita Venner was absent.*

**CLOSED SESSION**

The Commission returned to open session at 2:00 p.m.

*Motion was made by Darrell Hanson to refer Sunrise Dairy to the Attorney General's office. Seconded by James Braun. Motion carried unanimously.*

**REFERRED**

**PROPOSED RULE – CHAPTER 132 – TRANSPORTATION OF RADIOACTIVE MATERIALS IN IOWA**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve the attached draft Notice of Intended Action to rescind Chapter 132 of the Iowa Administrative Code.

The Department currently delegates all authority to the Iowa Department of Health who now has the authority through Iowa Code Chapter 136C to establish policy for the transportation, storage, handling, and disposal of radioactive materials. Therefore the Department is asking that the chapter be rescinded in its entirety.

**ENVIRONMENTAL PROTECTION COMMISSION [567]****Notice of Intended Action**

Pursuant to the authority of Iowa Code sections 455B.105, 455B.332 and 455B.333, the Environmental Protection Commission hereby gives Notice of Intended Action to rescind Chapter 132, "Transportation of Radioactive Materials in Iowa," Iowa Administrative Code.

The Department currently delegates all authority granted under Iowa Code sections 455B.332 and 455B.333 to the Iowa Department of Public Health under a 28E agreement between the two agencies. The Department of Public Health now has authority to establish policy for the transportation, storage, handling and disposal of radioactive material for the purpose of protecting the public health and safety. This authority is granted by Iowa Code Chapter 136C and in conjunction with agreements between Iowa Department of Transportation and the U.S. Nuclear Regulatory Commission. Therefore, it is proposed that this chapter be rescinded in its entirety.

Any interested person may make written suggestions or comments on this proposed rescission on or before October 9, 2001. Such written materials should be directed to Kathleen Lee, Emergency Response Unit, Department of Natural Resources, 401 S.W. 7<sup>th</sup> Street, Suite I, Des Moines, Iowa 50309; fax (515)725-0218, or email [kathy.lee@dnr.state.ia.us](mailto:kathy.lee@dnr.state.ia.us). Persons who wish to convey their views orally should contact the Emergency Response Unit at (515)725-0384 or may visit the Emergency Response Unit Office at 401 SW 7<sup>th</sup> Street, Suite I, Des Moines, Iowa.

These rules are intended to implement Iowa Code sections 455B.105, 455B.332 and 455B.333.

The following amendment is proposed.

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Rescind 567—Chapter 132 and reserve the number.

Donald Flater, Bureau Chief for the Bureau of Radiological Health in the Department of Public Health provided copies of the current legislation and an agreement between the State of Iowa and the U.S. Nuclear Regulatory Commission. He said Iowa's radiation control program started in 1979 with the passage 136C of the Iowa Code. At that point in time it dealt primarily with radiation machines, x-ray machines and the control of radioactive materials that were naturally occurring such as radium. Their authority was expanded in 1994 when 136C was amended to include all radioactive material. The reason that this action was taken was because the U.S. Nuclear Regulatory Commission has a program, which is called the Agreement States program. There are now thirty-two states that have used the NRC through the Atomic Energy Act to become an Agreement State. An Agreement State is a state that has taken the authority of the U.S. Nuclear Regulatory Commission based on an agreement between the Governor and the Commission at the time. The agreement was signed in 1985 and took effect in Iowa in 1986. This agreement allows the state to regulate the use of radioactive material and about 80% of the licenses to utilize radioactive materials will be held by a State agency. Part of the agreement included the Department of Public Health, because based on 180C, they are the radiation agency for the state of Iowa. Part of the agreement with NRC had to include 28E agreements, which they have with the Department of Natural Resources, Department of Transportation, and the Department of Public Safety. You cannot have radioactive materials in the State of Iowa unless you are licensed through the Department of Public Health. There are 185 specific licenses in the State of Iowa and two broad scopes, which are the University of Iowa and Iowa State. Broad scope means that they can do, with the oversight from the Department of Public Health, what they need to do through those institutions.

Lisa Davis Cook asked if the Department of Public Health had any authority over radioactive waste being trucked through the State.

Donald Flater said their authority comes if there is an accident because they would be required to meet the Department of Public Health's clean up standards, which are more stringent than the Federal Standards. He said they also currently maintain six emergency response units specific to radioactive material in the State. As far as specific regulations are concerned he does not believe any state can do that because in Iowa you have to have radioactive material on the Interstate for transport. In the situation where high level waste such as nuclear fuel rods the Department of Public Health is notified when they are coming through and have trained Department of Transportation Motor Carrier Safety people for escort purposes so that if an accident occurs they know what to do. Most rules regarding high level waste is through the Federal Government.

Jim Johnson from Earth Care said with the potential for catastrophic accident that radioactive waste poses he would like as many agencies on board and dealing with this subject as possible. It is highly a public health issue but is not exclusively so. He said the transportation casks for

moving spent fuel have never been crash tested loaded with fuel. The fuel rods are very heavy and are carried casks that are horizontal which means that the fuel rods, unlike in the reactor, are laid over on their side and trucked down the highway filled with chuck holes and accident potential. Any accident severe enough to cause fuel rod breakage within the casks will cause them drop into the bottom of the cask, compact, which will lead to a critical mass. Although it would not be a huge explosion it would be big enough to burst the cask and spill the ingredients on the ground. He said he would like to see as much regulatory genius brought to bear on this issue because it is a big problem that will become more so in the future once a storage place is located.

Mike Valde said this is one of the rules being reviewed in response to the Governor's executive order for unnecessary redundancy.

Kathy Lee from the Emergency Response Unit said she understood Mr. Johnson's concerns about transportation of high level radioactive waste in Iowa. She said Chapter 132 of the Iowa Administrative Code requires that all carriers of radioactive materials which are transported across the State of Iowa by highway and which are required to be labeled "Radioactive Yellow Free" by the United States Department of Transportation and 49CFR172.403(d) must notify the State of Iowa prior to movement in Iowa in accordance with the rules of Iowa Department of Transportation. All of this authority has been delegated to the Department of Public Health through 28E agreements. She said although she understands Mr. Johnson's comment that he wants a lot of expertise devoted to that subject, no section or division in the Department of Natural Resources has that expertise. The experts are in the Department of Public Health. She said she has been in Emergency Response unit for 11 years, if they receive a call on radioactivity it goes immediately to the Department of Public Health and Emergency Response Unit goes into a standby mode to assist the Department of Public Health but they are clearly the lead agency.

Lisa Davis Cook said she could see where the Department of Public Health would have jurisdiction over the impact on health but she would like to know if the DNR does anything about the impacts to the environment.

Kathy Lee said the DNR is secondary to the Department of Public Health on that as well, DNR plays a supportive role but it is the Department of Public Health that determines whether safe levels have been achieved.

Donald Flater said the Department of Public Health has the same posting requirements as the Department of Transportation and there are a number of trucks that transport radioactive waste across the state. Federal law prohibits the divulgence of information for ten days before and ten days after a shipment of radioactive material.

Kathy Lee said ten days prior to a shipment, people who are on a need to know list are notified and the transport of high level radioactive waste will be accompanied by an escort who is trained to respond immediately. Those shipments will also be tracked by a GPS system.

Donald Flater said that the Department of Public Health looks very strongly at the environmental issues.

<b>INFORMATION ONLY</b>
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**FINAL RULE – CHAPTER 61, WATER QUALITY STANDARDS**

Continued from earlier in the day.

Darrell Hanson said he is finding this situation very frustrating because on one hand there are people who want to retain the exemption but cannot necessarily give any real evidence that there would be a real problems if they don't have the exemption. There are people who want to get rid of the exemption but there is no evidence that the exemption causes any big problems. It is compounded by the fact that the people who defend the exemption have different ways of getting there. If you take the EPA's threat credibly it could be argued that the best way to give the anti-exemption side what it wants is to give the pro-exemption side what it wants by leaving the language the way it is. He said the issue might benefit from further study.

Terry Townsend said he felt that both Susan Heathcote and Chris Gruenhagen made good comments about getting all parties involved and spending more time coming up with a solution.

Jack Riessen said that a drainage ditch can refer to anything from a small dug channel that can be jumped over to the fork of the Des Moines River. As the drainage ditch ages it begins to meander and develops better habitat than a straight ditch. Habitat is fundamentally one of the most important things for a good aquatic fisheries resource. If the drainage district were to go in and restraighthen a fork of the Des Moines River to its original alignment under the repair and maintenance it would definitely have an impact on the fisheries resource. From a practical standpoint most of the repair and maintenance activities will be on the small and intermediate type streams. He said the staff never recommended the exemption be put in, it came from a very strong recommendation from people in the legislature and the Environmental Protection Commission to adopt the language exempting drainage district repair and maintenance. If the Commission wishes to maintain that drainage district exemption as they had in the past the proposed language may potentially be approved by EPA. From the staff point of view if the Commission wanted to remove the exemption there would be no objection either. He said they use the antidegradation policy a lot. When the Corps issues a 404 permit the Department has to issue a water quality certification and in many cases they go back on the antidegradation policy to either deny the permit or issue it with mitigation.

Brief discussion followed.

Jack Riessen said under the Clean Water Act section 404, drainage ditch maintenance is statutorily exempt from the 404 permitting. Therefore if the Commission wished to remove the exemption there is no permit process in place and no Section 402 water quality certification will be required. The Department has no other permit process in place but potentially a third party could come in and petition a district court to adjoin the project saying that it violates the antidegradation policy. He said that is where he thinks the concern lies.

Kelly Tobin asked if it would be possible to table this issue for two months.



Jack Riessen said from the time the notice of intended action is published a rule has to be finalized within 6 months. That time is running out so if it is not passed today a new notice of intended action will need to be put out. He said the department will be doing a second round of water quality standards addressing some other critical issues within approximately three months, he said another option would be to remove this issue from this rule and take it up again during that round.

*Motion was made by Kelly Tobin to remove the antidegradation from this rulemaking and pass the remaining rules as presented. Seconded by James Braun. Motion carried unanimously.*

**APPROVED AS AMENDED**

**NONPOINT SOURCE POLLUTION CONTROL PROJECT CONTRACT**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

Commission approval is requested to enter into a fifteen month, \$40,000 contract with the Iowa Farm Bureau Federation (IFBF) to assure the long term implementation and sustainability of the Iowa Farm\*A\*Syst Program.

Farm\*A\*Syst (FAS) is a cost effective, voluntary pollution risk assessment program that has been adopted and used by states nationwide. Through this program, farmers are able to evaluate potential environmental risks associated with their farms and residences and make appropriate changes to protect groundwater and surface water. Through previously funded IFBF efforts, available national FAS materials were revised to make them consistent with Iowa's laws, regulations, and environmental concerns. These materials have been used to a limited extent in actual program implementation in Iowa.

The primary purpose of this contract is to develop a sustainable FAS program using the material already developed. The IFBF will work with a variety of agricultural and commodity organizations, public agencies, and environmental interests to develop a delivery mechanism and funding source for the FAS program in Iowa, to provide training on the use of the FAS materials; and to inform potential end users of the availability of the FAS materials and delivery programs.

Contract funds will be used to support a project director and various activities associated with maintenance and delivery of the FAS materials. Funding for the contract will be from the EPA FFY97 Section 319 grant. Additional funding support will be provided by the IFBF.

Mike Valde explained the contract for the Commission. Chris Gruenhagen passed out a packet of materials that has been prepared for this program.

*Motion was made by Gary Priebe to approve the contract as presented. Seconded by Darrell Hanson. Motion carried unanimously.*

**APPROVED AS PRESENTED**

**TMDL MONITORING CONTRACT WITH UHL – CONTRACT AMENDMENT**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Environmental Protection Commission will be asked to approve an amendment to a contract with the University of Iowa Hygienic Laboratory (UHL) for water quality monitoring related to the establishment of TMDLs.

In March 2001, the EPC approved a contract with UHL for monitoring twelve streams for physical, chemical, and biological characteristics in an effort to acquire the data necessary to develop a total maximum daily load (TMDL) for the each of the streams. The cost of the contract was estimated at \$307,968.00, of which \$113,600 was for equipment purchases, with funding from a combination of state infrastructure funds and EPA Section 319 grant funds.

The amendment to this contract will be for similar water quality monitoring on Arbor Lake in Grinnell, the Little Cedar River at the USGS gage at Ionia, and the Shell Rock River at Rockford. Arbor Lake is on the 303(d) list for siltation and nutrients and a TMDL is anticipated in 2002. The two sites in the Cedar River basin are part of an already existing larger network to assemble data for development of a TMDL for the Cedar River for nitrates and fecal coliform bacteria. The TMDL for the Cedar River is expected to be completed in 2005.

The estimated cost of the contract amendment is \$57,848 and the contract amount will be increased by that amount. In addition, the term of the contract will be extended six months to accommodate the additional work. The lake project, totaling \$53,606, is being funded in part by a \$52,177 EPA 104(b)(3) grant with the balance of the funds coming from an EPA Section 319 grant.

Mike Valde said this contract would add three water bodies and would provide for monthly and event water quality monitoring at Arbor Lake, monthly monitoring at the Little Cedar River in Ionia and the Shell Rock River in Rockford and would extend the existing contract from April 15, 2002 to October 15, 2002.

Gary Priebe asked who owns the equipment purchased under this contract.

Mike Valde said the Department essentially owns the equipment.

Motion was made by Gary Priebe to approve the contract amendment as presented. Seconded by Lori Glanzman. Motion carried unanimously.

**APPROVED AS PRESENTED**

**FINAL RULE – CHAPTER 64, WASTEWATER CONSTRUCTION AND OPERATION PERMITS --  
CHAPTER 65, ANIMAL FEEDING OPERATIONS**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Iowa open feedlot plan was developed over the past year in cooperation with the Iowa Cattlemens Association, the Iowa Dairy industry, the Iowa Beef Center, IDALS, NRCS, Soil Conservation Districts of Iowa, Iowa Environmental Council, the Izaak Walton League, EPA,

and the IDNR. The plan is an approach to get Iowa's open feedlots identified and into compliance with existing state laws. A public hearing was held on this proposal on July 3, 2001. There was no attendance at that hearing. One written comment was received which supported the concept and urged quick implementation.

A copy of the open feedlot plan is attached. We recommend that the EPC adopt this rule and proceed with this program.

(A copy of the open feedlot plan is available in the Department's Record Center.)

Mike Valde said this is the Iowa Feedlot Plan, which deals with the registration and prioritization of open feedlots. By approving this rule it will adopt this policy by reference into the rules.

*Motion was made by Kathryn Murphy to approve the rule as presented. Seconded by Lisa Davis Cook.*

Gary Priebe said he was sure that this rule would pass but what bothers him is that it is just another step of additional rules and hoops that everyone has to jump through. He said farmers now have to go to the ASCS or FSA office to get permission to mow noxious weeds from CRP land and if you do not get permission you can be fined severely.

Jeff Vonk said another way to look at this is that this should have been done 20 years ago. He said this is just make up work but he feels it is a good step for the industry and a good step for the Department.

*Motion carried unanimously.*

**APPROVED AS PRESENTED**

#### NOTICE OF INTENDED ACTION – CHAPTER 65, ANIMAL FEEDING OPERATIONS

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will recall that this item was discussed last month as an information item. The basic issue here is a rule proposal that would require swine facilities with over 200,000 lbs. of animal weight capacity to submit manure management plans to the IDNR and the county prior to initiating construction. This is an issue that AACO and the department have not been able to agree upon prior to bringing it to the Commission for final adoption. Attached to this brief are copies of the AACO minutes from the June 6, 2001, meeting and the agenda brief from the July 2001, EPC meeting.

The rule that is under consideration today follows:

**65.16(2)** Effective [effective date of this amendment], an owner of a proposed confinement feeding operation that is required to file a manure management plan pursuant to rule 65.16(1)(b) shall submit the confinement feeding operation's manure management plan to the department at least 30 days before the construction of an animal feeding operation structure begins, as that term is defined in rule 65.8(1) and (2). After the manure management plan has been received by the department, the department will date stamp the plan as received and provide

written confirmation to the owner of receipt. In addition to the content requirements specified in rule 65.17(455B), the owner shall include:

- a. Documentation that the board of supervisors or auditor of the county where the confinement feeding operation is proposed to be located received a copy of the plan.
- b. Information (e.g., maps, drawings, aerial photos) that clearly shows the intended location of the animal feeding operation structures, and locations and animal weight capacities of any other confinement feeding operations within a distance of 2500 feet in which the owner has an ownership interest or manages.

The Commissioners will note that item b. listed above only requests information concerning locations of adjacent animal feeding operations that are within 2500 feet of the proposed location. The rule as presented to you last month requested information about required separation distances from other features within legally required separation distances.

The other issue that will be discussed at the Commission meeting will deal with being able to initiate construction without the approval of the manure management plan. The department is not suggesting that approval of the plan is necessary prior to the initiation of construction. The purpose of the submittal is to provide a form of local notice and to provide some assurance that enough land is available for the application of manure. The department does not have enough staff to review all of these sorts of plans within the 30 day notice period. It is doubtful that the department will EVER have enough staff to do that. The members of AACO would like to add that the review and approval of the manure management plan shall not be a legal impediment to the initiation of construction. The staff has not added this to our proposal, but can do so if the Commission directs us to do so.

Members of AACO will be present at the Commission meeting to share their viewpoints on this with you.

(A copy of the AACO minutes is available in the Department's Record Center.)

Mike Valde said the agenda brief incorrectly identified this item as an information item and a correct brief had been distributed to the Commissioners. He briefed the Commission on the history of the petition for rulemaking.

Gary Priebe asked who was in favor of this.

Mike Valde said the petition for rulemaking was originally submitted by 16 State Legislators. He said it has been presented to the Animal Agriculture Consulting Organization (AACO) and he asked Wayne Gieselman to brief the Commission on that meeting.

Wayne Gieselman said AACO does not totally agree with the Department on going forward with the proposal. He said Eldon McAfee was present to discuss some of AACO's concerns. He said there are some members of AACO that are not opposed to the rule but had concerns with whether there should be a thirty day notice to the local County Board of Supervisors. There are other members of AACO who believe that there should not be an early manure management plan put together at all.

Gary Priebe asked if this rule included the smaller confinement feeding operations that do not require a manure management plan.

Wayne Gieselmann said it did not.

*Motion was made by Kelly Tobin to approve the Notice of Intended Action as presented. Seconded by Lisa Davis Cook.*

Leland Little, County Supervisor for Taylor County said he represented the entire board of Supervisors and most of the people in Taylor County. He said he was there to speak in favor of the requirement that nonpermitted facilities be required to file a manure management plan with the DNR at least 30 days in advance of construction and the notification of the County Supervisors and Auditor where the facility will be located in the same thirty day period. Taylor County is fast becoming the home of many swine confined animal feeding operations. When this proliferation started four years ago the owners of the facilities were buying approximately ten acres per site. Currently they have found that they can get three buildings 40 by 240 feet on approximately three and a half acres. This means that a company can have ten sites that house 36,000 pigs and own less than ten acres of land in the county. This is happening. As a county supervisor he said he feels a great need to know where the manure from these operations will end up. Phosphorous is a nutrient in swine slurry manure that is over applied first. When considering how much manure can be used by a crop, he used a 150 bushel corn as an example, using that formula, pigs raised from weening to market will produce 5.51 pounds of phosphorous times, 1280 pigs per building, times 2.4 cycles per year, times three building per site, equals 50,781 pounds of phosphorous. This amount will meet the total requirement for 930 acres of corn at 150 bushels. Multiply this times 10 sites equals 9,300 acres. Considering the land in Taylor County is 70 percent croppable the owner will need 13,290 acres, however the people building the facilities own 40 acres. The nitrogen produced by these facilities could be a valuable commodity, the annual nitrogen value produced in a building 40 by 240 with an eighty-eight foot deep pit at 2000 market value was approximately 17,000 dollars. The owners of these buildings and the hogs are not farmers, to them manure is an industrial waste, that must be disposed of at the least cost to them. They give the manure to landowners, many of whom are not residents of Iowa who in turn give it to the large corporate farm, which has no equipment for applying. They hire an applicator, this means there are now four levels of people who control the manure and not one of them are responsible for the proper application. An example is, starting in January 2001, the manure from one building site was applied three times on the same ground. First they attempted to knife it into frozen ground. Second they knifed it into deep snow. Third they applied it to the surface of the ground after the spring thaw. These were complete applications every time and all on same ground. This ground lays approximately two miles above the Lake of Three Fires. Taylor County only has one State recreation area and this lake was found to be polluted with ecoli bacteria this spring. Another example is Sans Timber a conservation lake, a hog facility is also built next to it. Manure is applied within several yards of the lakeshore and in during the past winter it also tested high for ecoli bacteria. He said they constantly hear that the DNR does not have the staff to enforce their regulations pertaining to CAFO's. He said the local governments have office holders and staff who are well qualified and willing to assist, such as the County Board of Health and the County Conservation Board and the County Supervisors.

The NRCS could also play a role in this, they are familiar with local conditions and needs. He said the technical data presented was taken from Iowa State University publications.

Lisa Davis Cook said she would like to clarify that in her capacity as Executive Director of ICAN, Aaron Heley Lehman is the president of their Board of Directors.

Aaron Heley Lehman said that he is the Iowa Farmers Union's representative for AACO and they approve of the submission of manure management plans prior to construction because it will allow for some small level of public information. They feel it will help to stop some problems before they become costly and disruptive to the community. He said since manure management plans are already required to be submitted by these facilities this simply moves up the submittal time and they do not feel it is an overly burdensome increase in regulation. He said that manure management plans would continue to retain flexibility. At any time after an operation submits a manure management plan it can be changed without resubmitting to the DNR or county officials. Because of those things the Iowa Farmer's Union feels that this rule will provide some safeguards for the environment that make good sense.

Robert Mulqueen from the Iowa State Association of Counties said they have been arguing for home rule powers regarding animal confinement facilities since 1993 and notice to county officials, at the very minimum, should be granted, particularly in the light of legislation that was approved in the mid to late nineties which limited the home rule power in regard to livestock confinement facilities. With the criticism that has been leveled at the Department about monitoring and enforcement of administrative rules or statute, notice to the county will afford a new set of eyes to examine manure management plans.

Eldon MacAfee said that he was available to answer any questions about the AACO meeting and their position on this proposed rule.

Kelly Tobin asked who was on the committee.

Mr. MacAfee said there were nine members representing the following organizations, Iowa Pork Producers Association, Iowa Poultry Association, Iowa Cattlemen's Association, Iowa Dairy Products Association, Iowa State University, Natural Resources Conservation Service, Iowa Department of Agriculture and Land Stewardship, Iowa Farmers Union, and Farm Bureau.

Kelly Tobin asked if there was any way to find out who voted for and against this rule.

Mr. MacAfee said because it was a voice vote he is not sure.

Kathryn Murphy said she would like to know why the Department did not add the statement requested by AACO that the Review and approval of the manure management plan would not be a legal impediment to the initiation of construction.

Mr. MacAfee said he did not recall any discussion by AACO regarding that issue and to his knowledge it is not the position of AACO.

Gary Priebe asked if approval of the plan is not necessary prior to construction what is the purpose of the rule.

Wayne Gieselman said the objective is to require the person who is building the facility to think about their plan prior to construction to ensure they have enough land.

Gary Priebe said he did not see what good this would do if there were no consequences if they fail to submit the plan prior to construction.

Leland Little said every time a bulldozer breaks ground on an absentee landowners property in Taylor County the Supervisors are deluged with phone calls wanting to know what is being done. Recently the banker in the town was building a new house next to the Lake of Three Fires, an absentee landowner from Nebraska decided to clean the fences on the adjoining property. He said he spent two days trying to find the land owner and get him to confirm that he was simply clearing the fence and then had to put out the fires from all of the people who were panicked because the new banker was going to have a hog building next to his new house. That is why this is important to the County Supervisors, when people panic they would be prepared.

Mike Murphy said if they do not submit the notification as would be required by this rule, it would be a violation that the Department could take action on.

Jeff Vonk asked if as part of the public comment period and public hearings was it possible that there would be enough support that the rule would be changed to require prior approval of the manure management plans.

Wayne Gieselman said he tried to lay out what he thought would be the pros and cons for both sides. He said the industry is concerned that this could be used as a delaying tactic, he is concerned that he the Department would receive a lot of calls asking if the submitted plan meets state requirements.

Terry Townsend said there is a motion and a second on the table. He asked if there was any further discussion.

*Roll call vote went as follows: James Braun – Aye; Lisa Davis Cook – Aye; Kelly Tobin – Aye; Darrell Hanson – Aye; Lori Glanzman – Aye; Kathryn Murphy – Aye; Gary Priebe – No; Terry Townsend – Aye. Final vote was 7 to 1 with one Commissioner absent. Motion carried.*

**APPROVED AS PRESENTED**

#### **PROPOSED CONTESTED CASE DECISION: SHELL ROCK PRODUCTS, INC.**

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

On June 7, 2000, the department issued Administrative Order No. 2000-AQ-46 to Shell Rock Products, Inc. The Order required compliance with open burning and dumping rules, site cleanup, maintenance of air quality emission control equipment, and assessed a \$10,000 penalty.

Shell Rock Products appealed the Order, and the matter proceeded to administrative hearing on June 25, 2001. The Administrative Law Judge issued the attached Proposed Decision on July 6, 2001. The decision affirms the Order.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

Mike Murphy said he believed Shell Rock Products, Inc has already paid the penalty so he does not believe that there be an appeal in this case. He said this was the Commissions opportunity to review it on their own motion.

Kelly Tobin asked if they had corrected the violations.

Mike Murphy said they had already gone quite a ways toward correcting them by the time of the hearing but there were still some problems. He said the field office staff would follow up to make sure it is complete.

<b>NO ACTION WAS TAKEN</b>
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#### **PROPOSED CONTESTED CASE DECISION – DENNIS SEVERSON, D/B/A HUXLEY DRY CLEANERS**

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

On February 3, 2000, the department issued Administrative Order No. 2000-AQ-05 to Dennis Severson, d/b/a Huxley Dry Cleaners. The Order required compliance with air quality standards for dry cleaners, and assessed a \$4,500 penalty. He appealed the Order, and the matter proceeded to administrative hearing on July 17, 2001. The Administrative Law Judge issued the attached Proposed Decision on August 1, 2001. The decision affirms the Order.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission

Mike Murphy briefed the Commission on the history of the case. He said he did not know if there would be an appeal but the Commission had the opportunity to review the decision on their own motion.

Terry Townsend asked if the Department had shortened the time frame between issuing an administrative order and the notice of violation. He said it seemed to him that this person had plenty of chances to correct the problems.

Mike Valde said this was an important requirement in the Clean Air Act and the staff felt they should implement it in a consistent basis so they treated everyone the same in the beginning and



dealt with those that had continuing problems. With the staffing being the way it is the Department could only get out to the site once per year.

<b>NO ACTION WAS TAKEN</b>
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**PROPOSED RULE – CHAPTER 134, CERTIFICATION OF GROUNDWATER PROFESSIONALS**

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The proposed changes deal with administrative issues and clarifications to the rule.

**Background**

A “groundwater professional” is a person who provides subsurface soil contamination and groundwater consulting services or who contracts to perform remediation (cleanup) or corrective action services at leaking underground storage tank sites.

These rule changes clarify the certification process for groundwater professionals and clarify training requirement for professional engineers that are exempt from the certification process.

**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission proposes to amend Chapter 134, "Certification of Groundwater Professionals," Iowa Administrative Code.

Subrule 134.2(3) is being replaced and subrule 134.3(3) is being rescinded. These paragraphs were used to implement a transition period from the groundwater professional registration program to a certification process. Subrule 134.3(3) is no longer needed. Subrule 134.3(5) is being amended to clarify that 12 hours of continuing education is required during each 2 year certification period in order to receive recertification. The continuing education hours cannot be carried over to the next certification period.

Subrule 134.2(3) is being changed to require professional engineers exempted from the certification examination to take the risk based corrective action (RBCA) instruction course offered by the department before certification is granted. Previously, the course was required in the first year of certification as part of their continuing education. The department believes attending the course prior to certification is needed to ensure acceptable work is performed from the beginning of their certification. The Iowa RBCA procedures and software are not part of engineering training.

Applicants who fail to pass the certification examination a second time will be required to attend the two day RBCA course of instruction sponsored by the department before retaking the exam. Repeat exam failures indicate a need for additional training in the RBCA process.

Any interested person may submit written comments on the proposed rule amendment on or before October 15, 2001. Written comments should be sent to the Iowa Department of Natural Resources, Attn. Paul Nelson, Wallace State Office Building, Des Moines, IA. 50319,

Fax 515-281-8895, or e-mail [paul.nelson@dnr.state.ia.us](mailto:paul.nelson@dnr.state.ia.us). A public hearing will be held October 9, 2001 at 2:00 PM in the west conference room on the fifth floor of the Wallace State Office Building.

These amendments are intended to implement Iowa Code section 455G.18.

The following amendments are proposed.

Item 1. Amend subrule 134.2(3) by rescinding the rule and replacing it with the following:

**134.2(3)** In order to be certified as a groundwater professional, the applicant must complete the two day Risk Based Correction Action (RBCA) course and pass a certification examination offered or authorized by the department.

(1) Anyone who fails an initial examination may take a second examination.

(2) Failure of the second examination will result in termination of the application. A person may reapply for groundwater professional certification. The applicant must complete a regularly scheduled course of instruction before retaking the certification examination.

(3) Professional engineers who qualify for an exemption from taking the certification examination under subrule 134.3(6) must attend the RBCA initial course of instruction in order to be certified.

Item 2. Rescind subrule 134.3(3)

Item 3. Amend 134.3(5) by rescinding the rule and replacing it with the following:

**134.3(5)** Continuing education. All groundwater professionals are required to complete at least twelve hours of continuing education during each 2 year certification period.

a. The initial course of instruction required in 134.2(3) can be applied toward the first certification period's continuing education requirements. Continuing education credits cannot be carried forward to the next certification period.

b. Continuing education must be in the areas relating to underground storage tank contamination assessment and corrective action activities. Courses other than those provided by the department must be submitted to the department for prior approval as meeting the continuing education requirement.

Item 4. Amend subrule 134.3(6) as follows:

**134.3(6) Exemption from examination.** The department may provide for an exemption from the ~~initial course of instruction and~~ certification examination requirements for a professional engineer registered pursuant to Iowa code chapter 542B., ~~if~~ The person is must be qualified in the field of geotechnical, hydrological, environmental, groundwater, or hydrological engineering upon submission of sufficient proof of exemption to the Iowa comprehensive petroleum underground storage tank fund board, as provided in Iowa code section 455G.18(8). A groundwater professional exempted under this provision must meet the continuing education requirements of subrule 134.3(5).

INFORMATION ONLY
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**PROPOSED RULE – CHAPTER 135, TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS**

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The proposed changes implement the provisions of HF636. This law change removed the requirement for fuel depositors to notify the department if they become aware of an underground storage tank that did not have required tags.

**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission proposes to amend Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code. The rule amendments incorporate the changes made by 2001 Iowa Acts, House File 636, sections (1) and (2) and made effective July 1, 2001.

House File 636 removed the requirement for the person depositing a regulated substance in an unregistered underground storage tank to notify the owner or operator of their notification requirements. The person also is not required to report the unregistered tank to the department or provide the owner or operator with a tank registration form. However, it still remains unlawful to deposit a regulated substance into tanks that have not been registered and issued permanent or annual tank tags for both the depositor and the person accepting the regulated substance.

House File 636 makes it unlawful for a person to deposit a regulated substance in an underground storage tank after being notified by the department that the tank is not covered by an approved form of financial responsibility such as insurance. This amendment incorporates this requirement. The depositor and person accepting the substance remain subject to fines and penalties for depositing under these conditions. The \$25 additional registration fee for failing to register a tank has been increased to \$250. Also, the additional \$250 fee now applies for failure to obtain annual tank tags.

A major change is the requirement for a person who installs underground storage tanks and the owner or operator to notify the department in writing of the intent to install a tank. A person installing, modifying or repairing a tank used or intended to be used as an underground storage tank now must notify both the purchaser and owner or operator of the tank of the notification requirements.

Section 2 of House File 636 gives the department authority to deny registration and annual tank tags for underground storage tanks for which the owner or operator has not provided proof of financial responsibility coverage to the department. These amendments require owners and operators to provide such proof as a condition to receipt of tank registration and annual tank management fee tags without which they cannot lawfully obtain product.

A provision has been added to allow the department to give written authorization to fill untagged underground storage tanks to allow for testing or when there is a delay in getting tank tags to the owner or operator.

Any interested person may submit written comments on the proposed rule amendments on or before October 15, 2001. Written comments should be sent to the Iowa Department of

Natural Resources, Attn. Paul Nelson, Wallace State Office Building, Des Moines, IA 50319, Fax 515-281-8895, or e-mail paul.nelson@dnr.state.ia.us. A public hearing will be held October 9, 2001 at 2:00 PM in the west conference room on the fifth floor of the Wallace State Office Building.

These amendments are intended to implement 2001 Iowa Acts, H.F. 636, sections (1) and (2).

The following rule changes are proposed.

Item 1. Amend paragraph 135.3(3) "c" as follows:

c. An owner or operator who brings into use an underground storage tank after July 1, 1985, shall complete and submit to the department a copy of the notification form provided by the department within 30 days of installing the tank in the ground . The owner or operator shall not allow the deposit of any regulated substance into the tank without prior approval of the department or until the tank has been issued a tank registration tag and is covered by an approved financial responsibility mechanism in accordance with Chapter 567-136.

Item 2. Rescind paragraphs 135.3(3) "h," "i," "j," and "k" and replace them with the following:

h. Notification requirement for installing a tank. A person installing an underground storage tank and the owner or operator of the underground storage tank must notify the department of their intent to install the tank 30 days prior to installation. Notification shall be on a form provided by the department.

i. Notification requirements for a person who sells installs, modifies or repairs a tank. A person who sells, installs, modifies, or repairs a tank used or intended to be used in Iowa shall notify, in writing, the purchaser and the owner or operator of the tank of the obligations specified in paragraphs "c," "j" and the financial assurance requirements in 455B--Chapter 136. The notification must include the prohibition on depositing a regulated substance into tanks, which have not been registered and issued tags by the department. A standard notification form supplied by the department may be used to satisfy this requirement.

j. It is unlawful for a person to deposit or accept a regulated substance in an underground storage tank that has not been registered and issued permanent or annual tank management tags in accordance to this rule.

(1) The department may provide written authorization to receive a regulated substance when there is a delay in receiving tank tags or at new tank installations to allow for testing the tank system.

(2) The department may provide known depositors of regulated substances lists of underground storage tank sites which have been issued tank tags and have not been issued tank tags. These lists do not remove the requirement for depositors to check for current tank tags being affixed to the fill pipe prior to delivering product. Regulated substances cannot be delivered to underground storage tanks without current tank tags.

(3) A person shall not deposit a regulated substance in an underground storage tank after receiving written or oral notice from the department the tank is not covered by an approved form of financial responsibility in accordance with 567-Chapter 136.

k. If an owner or operator fails to register an underground storage tank within 30 days after installation or obtain annual renewal tags by April 1, the owner or operator shall pay an additional \$250 upon registration of the tank or application for tank tag renewal. This does not preclude the department from assessing an additional administrative penalty in accordance with section 455B.476.

ITEM 3. Amend paragraph 135.3(5) “b” as follows:

The owner or operator of tanks over 1100-gallon capacity must submit a tank management fee of \$65 per tank by January 15 of each year. The owner or operator must also submit written proof the tanks are covered by an approved form of financial responsibility in accordance with chapter 567-136. Upon proper payment of the fee and acceptable proof of financial responsibility, a one-year registration tag will then be issued for the period from April 1 to March 31. The department shall refund a tank management fee if the tank is permanently closed prior to the effective date of April 1 for that year.

ITEM 4 Amend paragraph 135.3(5) “d” as follows:

A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of a current tag. If the tag is not affixed to the fill pipe or fill pipe cap, the person may not deposit the substance into the tank.

<b>INFORMATION ONLY</b>
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**PROPOSED RULE – CHAPTER 119, WASTE OIL – CHAPTER 144, HOUSEHOLD HAZARDOUS MATERIALS – CHAPTER 210, GRANTS FOR SOLID WASTE PLANNING - CHAPTER 211, GRANTS FOR REGIONAL COLLECTION CENTERS OF CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS AND HOUSEHOLD HAZARDOUS WASTE - CHAPTER 212, LOANS FOR WASTE REDUCTION AND RECYCLING PROJECTS – CHAPTER 214, HOUSEHOLD HAZARDOUS MATERIALS PROGRAM**

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The Commission is requested to approve this Notice of Intended Action to begin the formal rule making process on the attached proposed rules. In response to the need to modify existing administrative rules and the Governor’s Executive Order 8, the following brief and attachment are presented.

The Department’s stakeholders reviewed existing rules and provided comments on assessment forms as part of the Department’s rules revision process during the Fall of 2000. Proposed rule changes were developed and presented at a meeting of stakeholders in July, 2001 with little comment from meeting participants.

The following paragraphs provide a brief narrative of changes to existing rules by chapter.

**Chapter 119 – Waste Oil**

- Amended Division references to current Division name.
- Replaced old household hazardous material program symbol with new symbol.

**Chapter 144 – Household Hazardous Materials**

- Deleted all requirements pertaining to retailers that sell household hazardous materials place a label on shelves containing household hazardous materials. This requirement was deleted from Iowa Code 455F in 1998.
- Replaced old household hazardous material program symbol with new symbol.

**Chapter 210 – Grants for Solid Waste Planning**

- Deleted chapter in its entirety. Statutory authority repealed in 1987.

**Chapter 211 – Grants for Regional Collection Centers of Conditionally Exempt Small Quantity Generators and Household Hazardous Waste**

- Added new section 211.12 dealing with disposal funding assistance. Adding this section incorporates all regional collection center funding into one chapter. This section was moved from Chapter 214.11 and clarified.
- Replaced all references to Chapter 214.11 with 211.12.

**Chapter 212 – Loans for Waste Reduction and Recycling Projects**

- Deleted chapter in its entirety. Statutory authority repealed in 1995.

**Chapter 214 – Household Hazardous Materials Program**

- Amended division name to current name.
- Deleted 214.11. This section is being modified and added to Chapter 211 as new 211.12. This will place all funding assistance for regional collection centers in Chapter 211.
- Added “unless otherwise designated by the Department” in reference to soliciting proposals for education grants and toxic cleanup day events two times each year. This is necessary due to budgetary uncertainties and improved stakeholder responsiveness.

The attachment provides each administrative rule included in this Notice of Intended Action complete with strikethroughs and underlines.

At this time, the Commission is requested to approve this Notice of Intend Action for Iowa Administrative Code Chapters 119, 144, 210, 211, 212, and 214.

(A copy of the proposed rules are available in the Department’s Record center.)

Liz Christiansen briefed the commission on the three information items involving proposed rules. She said these would all be coming before the Commission in September as Notice of Intended Action. She said even though these were all minor rule changes they will all be going through the formal rulemaking process to allow citizens and professionals to have input.

<b>INFORMATION ONLY</b>
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**MEMORANDUM OF UNDERSTANDING ON THE NEGOTIATED OUTCOMES FOR DISCARDED CARPET**

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

**Issue background**

The Carpet and Rug Institute and the Minnesota Office of Environmental Assistance, on behalf of state governments participating in the Midwestern Workgroup on Carpet Recycling, signed a Memorandum of Understanding in January, 2001 to achieve the goal of a flexible and sustainable voluntary industry-led approach to reducing landfilled discarded carpet. With the signing of the Memorandum of Understanding, state governments and the carpet industry agreed to jointly develop the Negotiated Outcomes. The Negotiated Outcomes participants include carpet manufacturers, the Carpet and Rug Institute, fiber manufacturers, material suppliers, seven state governments (MN, IA, MD, NC, CA, OR, MA), US EPA, and non-governmental organizations (Northeast Recycling Council).

The Negotiated Outcomes group will establish goals for the reuse, recycling, waste-to-energy and use of cement kilns and landfilling of discarded carpet over a ten-year timeframe. To generate the goals, the Negotiated Outcomes group created study groups corresponding to each management method. The study groups used available information concerning the amount of carpet destined for each management method in 2001 as well as anticipated infrastructure and technological developments, pending solid waste policies and other factors that may impact the disposal of carpet. The Negotiated Outcomes group has met four times since March 2001 and will meet again in August 2001 to finalize goals.

The Carpet and Rug Institute provided data to serve as an estimated baseline for the amount of carpet discarded between 2002 and 2012. The Carpet and Rug Institute estimates that 4,678, 000 million pounds of carpet are to be disposed in 2002 with an escalation to 6,772,000,000 pounds by 2012.<sup>1</sup>

### **Finalizing Diversion Goals**

The Negotiated Outcomes group will finalize the second Memorandum of Understanding (MOU) at its August 2001 meeting in Washington, DC. The final MOU will be presented to the EPC in September along with a request to authorize the Administrator of the Land Quality and Waste Management Assistance Division to sign on behalf of the State of Iowa. The group will hold a formal signing of the MOU and a press event at the National Recycling Coalition meeting in Seattle in October 2001.

Liz Christiansen said carpet is a particularly difficult item to handle through recycling. It can also be difficult to manage in the landfilling process. She said a group of states got together and approached the carpet and rug institute and said they wanted to work with them through a negotiated outcome process. As a group they set goals for recycling as opposed to states independently taking regulatory action banning carpet from landfills by a certain year. The process is being watched on a national level because it has never been done before and her division is proud to be a part of it. She said as correction in the third paragraph of the item brief the 4,678,000 million should read 4.7 billion. They are currently in the process of finalizing the memorandum of agreement and plan to have a formal signature ceremony at the National Recycling Coalition meeting in Seattle at the end of September. She said however she will need the Commission's authority to sign for the State of Iowa therefore she will be bring the actual document to the September Commission meeting for them to review and to decide whether or not to give her authority to sign it. She said since this has been so successful the State of Minnesota and Iowa have initiated the same process on electronics.

<b>INFORMATION ONLY</b>
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### **PROPOSED RULES – CHAPTER 44, DRINKING WATER REVOLVING FUND - CHAPTER 92, STATE REVOLVING FUND LOANS FOR WASTEWATER TREATMENT – CHAPTER 93, ONSITE WASTEWATER TREATMENT SYSTEM ASSISTANCE PROGRAM**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

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<sup>1</sup> The Carpet and Rug Institute estimates a 13 year replacement cycle for carpet as well as an average of 3.55 pounds per square yard,

The Commission will be provided copies of proposed rule amendments for the drinking water, wastewater, and onsite revolving loan funds. The amendments being proposed would:

- Establish a uniform interest rate (approximately 3%) for loans, replacing the existing, complicated rate formula that depends on a number of factors including bond interest rates.
- Provide more flexibility in loan repayment schedules (e.g., shorter term loans), address parity with other recipient obligations and specify revenue pledge coverage requirements.
- Acknowledge that EPA clean water capitalization grants will be used to capitalize the Onsite Wastewater Assistance Fund established in Chapter 93.
- Eliminate the provision in Chapter 93 that says the Department will assume the risk for delinquent on-site SRF loans.

Other minor wording changes for clarification and uniformity are also being proposed.

The changes to the drinking water and wastewater revolving loan programs, jointly administered with the Iowa Finance Authority, are being proposed more or less concurrently with a financial restructuring of the funds as recommended by the IFA's consultants and bond counsel. Iowa provides the cost match for EPA capitalization grants by issuing bonds and the number of bond issues outstanding has complicated program administration. The restructuring will consolidate bond issues and make other changes that may, in the future, allow use of the clean water revolving fund for non-traditional projects such as loans for animal feeding operation pollution control facilities or brownfields cleanup.

The changes to Chapter 93 are being promulgated to eliminate a conflict with the Iowa Constitution. Informal advice from the Attorney General's office indicated that 567 IAC 93.5(1)"b" violates the constitutional provision of Article VII, Section 1, that prohibits the State from lending credit or assuming the debts or liabilities of another.

The Commission will likely be asked to "double barrel" these amendments – adopt as emergency and simultaneously publish a Notice of Intended Action - in September because of the nature of these amendments and the benefits for potential loan recipients. This will minimize delays in loan commitments and allow applicants to take advantage of the lower interest rates and other benefits provided in the amendments as soon as possible. It will also accommodate the implementation of the Onsite Wastewater Assistance Fund by allowing the Intended Use Plan to include the necessary provisions at the appropriate time.

Mike Valde briefed the Commission on the proposed rules. He said in the rules that were adopted for the onsite loans have created a problem. The Department received an opinion from the Attorney General's Office that the provision in the rules that states the Department will be liable in the event of default on those loans is unconstitutional because the State cannot pledge the credit of the State for an individual or a corporation. The department is proposing to change the language to read, "The Department will assume the risk of the delinquent on site loans." This however could have an impact on the interest rates. He said these rules are being done in conjunction with some changes in the Iowa Finance Authority's rules. When they come before the Commission in September the Department will ask that the Commission make them effective immediately.



<b>INFORMATION ONLY</b>
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**PROPOSED RULES – CHAPTER 22, CONTROLLING POLLUTION (TITLE V PERMIT)**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve the attached draft Notice of Intended Action to amend Chapter 22, “Controlling Pollution” 567 Iowa Administrative Code.

The purpose of this rule making is to revise the deadline for which an application is due for a significant modification of a Title V permit. Currently, subparagraph 22.105(1)"a"(4) requires an application at least 6 months prior to any planned significant modification of a Title V permit. The Department has received two requests from the regulated public that the 6 month deadline be revised because of permit timing issues.

Although 40 CFR Part 70 does not specifically address the deadline for an application for a significant modification, it does state that a complete application to obtain a Title V permit or permit revision is required within 12 months after commencing operation or on or before such earlier date as the permitting authority may establish. This rule making seeks to change the deadline for submission of a significant modification of a Title V permit to no later than 3 months after commencing operation of the changed source.

(A copy of the proposed rules are available in the Department’s Record Center.)

Mike Valde said the current Title V rule states that, “prior to initiating a significant permit modification, a permittee of a Title V permit shall give the Department six months notice. He said he believed that provision was intended to be more directory rather than mandatory and there has been some confusion as to whether a permit amendment is legal if it is processed prior to the six months period. This rule changes the wording to say notice must be given to the Department within three months after commencing the changed operation.

Brief discussion followed.

<b>INFORMATION ONLY</b>
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**PROPOSED RULE – CHAPTER 22, CONTROLLING POLLUTION (AIR CONSTRUCTION PERMITTING)**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be provided information on proposed amendments to Chapter 22, “Controlling Pollution” 567 Iowa Administrative Code.

The purpose of this rulemaking is to establish a definition of certain air emission units as “Small Units” and list those emission units as being exempt from the requirement to obtain an air construction permit. The rulemaking also establishes a definition of “Indoor Units” for which no

air construction permits are required. It is important to note that the facility retains the obligation to determine whether other air permitting requirements still apply to those sources, and if such obligations exist, to meet those.

This rulemaking is the result of an extensive cooperative negotiated rulemaking process between the department and representatives of the Iowa Association of Business and Industry (ABI). Both the department and ABI are interested in reducing the regulatory burden on industry where the actual emissions of air contaminant sources are likely to have little or no environmental or human health consequences.

Although no changes are proposed to subrule 567-22.1(1) "Permits required" it is listed to provide the context to which the exemptions apply.

This rulemaking makes minor changes to the first paragraph of the "Exemptions" subrule (22.1(2)) to clarify the obligations that otherwise exempt sources must consider when determining if the use of an exemption is appropriate. Emission units or control equipment that must be considered for the purposes of PSD (Prevention of Significant Deterioration), Nonattainment area permitting, New Source Performance Standards (NSPS), Emission Standards for Hazardous Air Pollutants and Hazardous Air Pollutant (NESHAP) source categories, and emissions guidelines (EGs) are not eligible for exemption from the construction permitting rules if any of these standards or conditions apply. These restrictions are established because of State Implementation Plan requirements or federal Clean Air Act requirements.

Paragraph 22.1(2)"i" is amended to clarify the intent of language referring to the federal Clean Air Act section 112(g). The department has always implemented this language to mean that if an emission equipment emits hazardous air pollutants, excepting those five listed, that exemption "i" can not be used.

The amendment adds a new paragraph 22.1(2)"t" establishing an exemption for containers, storage tanks or vessels containing fluid having a maximum true vapor pressure of less than 0.75 psai. This recognizes that fluids with low vapor pressures have low rates of emissions. Some emission units meeting this definition may fall under NSPS subpart Kb. The department will seek an amendment to the Delegation Agreement with U.S. EPA to exempt these sources from permitting under the State Implementation Plan.

The amendment adds a new paragraph 22.1(2)"u" establishing an exemption for passive vents or exhausts primarily intended to allow the escape of moisture while handling, transporting, or storing any material. This exemption does not include dryers.

The next part of the amendment adds a significant new exemption for "Small Units." Small units are defined as emission units and associated control equipment that actually emit less than 40 pounds per year of lead and lead compounds expressed as lead, 5 tons per year of sulfur dioxide, 5 tons per year of nitrogen oxides, 5 tons per year of volatile organic compounds, 5 tons per year of carbon monoxide, and 2.5 tons per year of PM10. The presence of other emissions not listed does not effect the use of this exemptions except as noted in the first paragraph of the overall exemptions subrule (22.1(2)). The new exemption explains that the owner or operator of a small unit may request a construction permit although one is not required by rule. This is useful for facilities that are seeking to obtain federally enforceable emission or operating limits, or establish federal recognition of the operation of control equipment to avoid permitting requirements of other air regulatory programs such as PSD and Title V Operating Permits.

The Small Unit exemption also details the process by which either the owner or operator, or the department would identify an emission unit as not meeting the exemption, and the process and protections for then obtaining an air construction permit without penalty. The last portion of

this new exemption addresses concerns that the operation of many of these small units may together lead to negative environmental impacts. A subcategory, “substantial small unit” is defined as those units that actually emit seventy-five percent of the “small unit” thresholds. The owner or operator of the facility must notify the department within 90 days of the end of the first calendar year that the aggregate emissions from “substantial small units” at the facility exceed any of the “notice thresholds” defined in the exemption. This gives the department the opportunity to evaluate the ambient impacts of the aggregate emissions against the health standards.

A new “Indoor Unit” exemption (22.1(2)“w”) is added. An indoor unit is defined as any emission unit or air contaminant source that is not directly vented or exhausted to the outside atmosphere and includes any air exchange through general ventilation, windows, doors, and cracks. A horizontally discharging powered side vent is not an “Indoor unit” unless it meets both of the following criteria: 1) located more than 15 feet above the ground; and 2) located more than 130 feet from the facility’s closest property-line. The terms “directly vented or exhausted” and “general ventilation” are given specific definitions for the purpose of this exemption. The indoor unit exemption also details the process by which either the owner or operator, or the department would identify an emission unit as not meeting the exemption, and the process and protections for then obtaining an air construction permit without penalty. The last portion of this exemption addresses concerns that if the emissions from indoor sources exceed certain thresholds, that ambient air may be adversely affected. The owner or operator of the facility must notify the department within 90 days of placing in service an indoor unit with actual emissions that exceed any of the “notice thresholds” defined in the small unit exemption (22.1(2)“v”).

An informational meeting will be held at 1:00 p.m. in conference room 1 on August 27, 2001, at DNR’s Air Quality Bureau offices located at 7900 Hickman Road, Urbandale, Iowa. At the informational meeting, DNR staff will be available to answer questions on any of the proposed amendments.

The department will seek inclusion by U.S. EPA of this amendment into the State Implementation Plan upon final approval by the Commission

In September, the Commission will be asked to approve the Notice of Intended Action for publishing and public comment.

(A copy of the proposed rule is available in the Department’s Record Center.)

Mike Valde said this rule would define small units and indoor units and provide exemptions from the construction permitting requirements for those units that are defined as small or indoor units. He said the Department worked through June and July with a group of people from ABI to reach a consensus on these rule changes. The idea is to exempt sources that are small enough that the Department does not feel they would have an impact on the ambient air quality.

<b>INFORMATION ONLY</b>
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## **MONTHLY REPORTS**

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

Proposal	Notice to Commission	Notice Published	ARC #	Rules Review Committee	Hearing	Comment Period	Final Summary to Commission	Rules Adopted	Rules Published	A R C #	Rules Review Committee	Rule Effective
1. Ch. 13 - Waiver Rules	2/19/01	3/21/01	0573B	4/06/01	-----	4/10/01	*9/17/01	*9/17/01	*10/17/01		*11/05/01	*11/21/01
2. Ch. 20, 22 - Air Quality Rules	5/21/01	6/13/01	0736B	7/10/01	7/19/01	7/27/01	*9/17/01	*9/17/01	*10/17/01		*11/05/01	*11/21/01
3. Ch. 22 - Revised Deadline for Timely Submittal of Title V Permits	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/02		*2/04/02	*2/13/02
4. Ch. 22 - Exempt Small Emission Units and Indoor Sources from AQ Construction Permitting	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/02		*2/04/02	*2/13/02
5. Ch. 44, 92 & 93 - State Revolving Funds for Drinking Water, Wastewater and On-Site Systems	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/02		*2/04/02	*2/13/02
6. Ch. 60 - Wastewater Treatment and Disposal	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/02		*2/04/02	*2/13/02
7. Ch. 61 - WQ Standards	1-16-01	2/07/01	0470B	3/09/01	2/20,22, 26, 3/2/01	2/14/01	8/20/01	*8/20/01	*9/19/01		*10/02/02	*10/24/01
8. Ch. 64, 65 - Operation Permit Required	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/01		*2/04/02	*2/13/02
9. Ch. 65 - Pre-Construction Manure Management Requirements	8/20/01	*9/19/01		*10/02/01			*11/19/01	*11/19/01	*12/12/01		*1/08/02	*1/16/02
10. Ch. 65 - Newly Submitted Manure Management Plan	5/21/01	6/13/01	0731B	7/10/01	7/03/01	7/03/01	8/20/01	*8/20/01	*9/19/01		*10/02/01	*10/24/01
11. Ch. 65 - Iowa Open Feedlot Registration Program	6/18/01	7/11/01	0818B	8/07/01	7/31/01	7/31/01	*10/22/01	*10/22/01	*11/14/01		*12/03/01	*12/19/01
12. Ch. 102 - Permits - Emergency Response and Remedial Action Plans (ERRAP)	5/21/01	6/13/01	0734B	7/11/01	7/05/01	7/05/01	8/20/01	*8/20/01	*9/19/01		*10/02/01	*10/24/01
13. Ch. 118 - Removal of Disposal of PCBs from Appliances Prior to Processing	4/16/01	5/16/01	0668B	6/05/01	6/05/01	6/05/01	*9/17/01	*9/17/01	*10/17/01		*11/05/01	*11/21/01
14. Ch. 119, 144, 210, 211, 212 & 214 - Waste Management Asst. Division Rule Revisions	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/02		*2/04/02	*2/13/02
15. Ch. 132 - Transportation of Radioactive Materials In Iowa	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/02		*2/04/02	*2/13/02
16. Ch. 134 - Certification of Groundwater Professionals	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/02		*2/04/02	*2/13/02
17. Ch. 135 - Technical Standards and Corrective Action Requirements for Owners/Operators of USTs	*9/17/01	*10/17/01		*11/05/01			*12/17/01	*12/17/01	*1/09/02		*2/04/02	*2/13/02

Item No.	Facility	Program	Engineer	Subject	Decision	Date
1	ALCOA-Bettendorf	Air Quality		Permit Requirements	Approved	08/15/01
2	Bertch Cabinet Mfg., Inc.- Waterloo	Air Quality		Permit Requirements	Approved	08/01/01
3	Farmers Cooperative- Lanesboro	Air Quality		Structures	Denied	08/06/01

4	Monsanto Company-Grinnell	Air Quality	Svedrup Civil	Permit Requirements	Approved	08/16/01
5	Sheaffer Mfg. Co, LLC-Fort Madison	Air Quality		Permit Requirements	Approved	08/07/01
6	Strawberry Point Utilities-City of Strawberry Point	Air Quality		Permit Requirements	Approved	08/06/01
7	Wapsie Produce, Inc.-Decorah	Wastewater Operation		Monitoring Frequency	Approved	08/24/01
8	Cedar Rapids Water Department Lime Sludge Landfill-Closed	Solid Waste	Bruce A. Jacobs, Cedar Rapids Water Department	Groundwater Monitoring	Approved	08/20/01

A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

Month	Substance					Mode				
	Total Incidents	Agri-chemical	Petroleum Products	Other Chemicals	Transport Facility	Fixed	Pipeline	Railroad	Fire	Other*
October	60 (62)	3 (6)	42 (48)	14 (5)	22 (32)	32 (23)	0 (1)	1 (2)	1 (0)	4 (4)
November	57 (64)	4 (10)	39 (38)	14 (15)	19 (26)	32 (30)	0 (1)	4 (3)	1 (1)	1 (3)
December	44 (67)	0 (10)	28 (40)	16 (17)	10 (23)	31 (34)	0 (1)	1 (4)	0 (0)	2 (5)
January	55 (41)	7 (4)	36 (27)	12 (9)	13 (13)	33 (24)	0 (1)	0 (0)	0 (0)	9 (3)
February	58 (65)	0 (3)	43 (32)	15 (30)	14 (14)	36 (48)	0 (0)	4 (0)	1 (1)	3 (2)
March	81 (96)	3 (20)	56 (64)	22 (12)	21 (43)	49 (45)	1 (2)	2 (0)	2 (0)	6 (6)
April	126 (112)	32 (39)	71 (42)	23 (31)	35 (38)	78 (63)	3 (0)	4 (0)	1 (3)	5 (8)
May	111 (97)	24 (25)	65 (59)	22 (13)	28 (38)	71 (53)	3 (0)	3 (2)	1 (0)	5 (4)
June	91 (96)	17 (11)	59 (62)	15 (23)	25 (27)	58 (59)	1 (1)	2 (0)	0 (0)	5 (9)
July	59 (99)	7 (4)	46 (76)	6 (19)	18 (20)	32 (66)	0 (3)	1 (6)	1 (2)	7 (2)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
<b>Total</b>	<b>742 (799)</b>	<b>97 (132)</b>	<b>485 (488)</b>	<b>159 (174)</b>	<b>205 (274)</b>	<b>452 (445)</b>	<b>8 (10)</b>	<b>22 (17)</b>	<b>8 (7)</b>	<b>47 (46)</b>

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
13	3	8	6	18	11

\*The "other" column includes the categories from the database of Dumping, Fire, Theft, Vandalism, Unknown and Other.

During the period July 1, 2001, through July 31, 2001, 2 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

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Month	Total Incidents Impacts	Feedlot Application	Confinement Water	Land	Transport	Hog	Cattle	Fowl	Other	Surface
October	5 (6)	0 (0)	2 (3)	2 (2)	1 (1)	4 (6)	1 (0)	0 (0)	0 (0)	1 (2)
November	3 (4)	0 (0)	2 (2)	1 (1)	0 (1)	3 (3)	0 (1)	0 (0)	0 (0)	1 (0)
December	2 (2)	0 (0)	1 (1)	1 (1)	0 (0)	2 (1)	0 (1)	0 (0)	0 (0)	0 (0)
January	1 (0)	0 (0)	1 (0)	0 (0)	0 (0)	1 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	4 (1)	0 (0)	4 (1)	0 (0)	0 (0)	4 (1)	0 (0)	0 (0)	0 (0)	2 (1)
March	2 (0)	0 (0)	1 (0)	1 (0)	0 (0)	1 (0)	1 (0)	0 (0)	0 (0)	0 (0)
April	6 (1)	0 (0)	3 (1)	0 (0)	3 (0)	5 (1)	1 (0)	0 (0)	0 (0)	0 (0)
May	3 (1)	0 (0)	3 (1)	0 (0)	0 (0)	3 (0)	0 (1)	0 (0)	0 (0)	0 (1)
June	2 (0)	0 (0)	2 (0)	0 (0)	0 (0)	2 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	2 (2)	0 (0)	1 (2)	1 (0)	0 (0)	2 (2)	0 (0)	0 (0)	0 (0)	1 (1)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
<b>Total</b>	30 (17)	0 (0)	20 (11)	6 (4)	0 (0)	27 (14)	3 (3)	0 (0)	0 (0)	5 (5)

(numbers in parentheses for the same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
0	0	0	1	1	0

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Winter Inc. and Julius Winter, Iowa Falls (2)	Air Quality Solid Waste	Fugitive Dust; Illegal Disposal	Consent Amendment	6/27/01
Roger Bockes, et.al., Tama Co. (5)	Animal Feeding Operation	Prohibited Discharge – Confinement	Amended Order	6/27/01
Nevada, City of (5)	Underground Tank	UST System Deficiencies; Financial Responsibility	Order/Penalty \$5,600	7/6/01
Elaine and Kurt Bierman d/b/a Osterdock Store, Guttenberg (1)	Drinking Water	Monitoring/Reporting – Bacteria; MCL – Bacteria; Public Notice	Referred to AG	7/16/01
West Liberty, City of (6)	Wastewater	Discharge Limits; Operational Violations	Referred to AG	7/16/01
Melsha Tap, Inc., Swisher (6)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Public	Referred to AG	7/16/01

			Notice			
Williams Pipeline Co., L.L.C., Waterloo, Dubuque, Milford (1, 3)	Air Quality	Construction Permit	Without	Referred to AG		7/16/01
CF Processing, L.C., Creston (4)	Air Quality	Construction Permit; Operation Permit; Monitoring/Reporting	Without	Order/Penalty \$10,000		7/17/01
Trajet Products, L.C., Glenwood (4)	Air Quality	Construction Permit; Operation Permit; Monitoring/Reporting	Without	Order/Penalty \$10,000		7/17/01
Krajicek, Inc., d/b/a Krajicek Brothers; Sara and Leonard Krajicek, Harrison Co. (4)	Air Quality Solid Waste	Open Burning; Illegal Disposal		Consent Amendment		7/17/01
Martin Marietta Materials, Inc. Ames (5)	Air Quality	Construction Permit; Monitoring/Reporting	Contrary to	Consent Amendment		7/17/01
McGill Abatement Co., Inc., Harlan (4)	Air Quality	Asbestos		Consent Amendment		7/17/01
Circle Hill Farms, Ltd., Hamilton Co. (2)	Wastewater	Prohibited Discharge		Order/Penalty \$3,000		7/17/01
Gold-Eagle Cooperative, Wright Co. (2)	Wastewater	Prohibited Discharge		Order/Penalty \$5,000		7/17/01
Galva, City of (3)	Wastewater	Monitoring/Reporting; Operational Violations; Certified Operator		Order/Penalty \$1,000		7/17/01
Clinton, City of (6)	Wastewater	Compliance Discharge Operational Violations	Schedule; Limits;	Order/Penalty \$1,000		7/17/01
Earlham, City of (5)	Wastewater	Compliance Discharge Operational Violations	Schedule; Limits;	Order/Penalty \$10,000		7/17/01
Long Branch	Wastewater	Construction	Without	Order/Penalty		7/17/01

Maintenance Corp., Adair Co. (4)	Permit; Monitoring/Reporting; Compliance Schedule; Operational Violations	\$5,000		
Lincoln, City of (5)	Wastewater	Prohibited Discharge, MIP	Amended Order	7/17/01
Northwest Iowa Solid Area Solid Waste Agency, Sheldon (3)	Solid Waste	Comprehensive Planning Violations	Order/Penalty \$4,000	7/24/01
ABC Disposal Systems, Inc., Hiawatha Co. (1)	Solid Waste	Operation Without Permit	Order/Penalty \$5,000	7/24/01

The following administrative penalties are due:

Name/Location	Program	Amount	Due Date
Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Keith Owens and Howard Maurer (Wilton)	UT	3,100	1-01-96
Ronald Slocum; Tammy Lynn Determan (Marshall Co.)	SW	10,000	5-24-97
Sale-R-Villa Const., Inc. (Perry)	AQ	7,000	4-28-98
Larry Cope, Susan E. Cope, Bill VanPelt (Carlisle)	WW	1,500	5-05-98
Leland DeWitt (Louisa Co.)	AQ/SW	3,000	11-21-98
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
* Orrie's Supper Club, Inc. (Hudson)	WS	390	6-01-99
Charlie's Supper Club (Algona)	WS	100	7-01-99
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	7-26-99
Capitol Oil Co. (Oxford)	UT	6,560	10-09-99
* Hidden Valley Mobile Home Park (Washington)	WW	200	12-12-99
* Minifarm Acres, Inc. (Cedar Co.)	WS	375	1-29-99
Dorchester Supper Club (Dorchester)	WS	100	3-08-00
Plain Salvage Inc. (Sac City)	AQ/SW	10,000	5-12-00
Steve Friesth (Webster Co.)	AQ/SW	4,000	6-05-00
Martin Marietta Materials, Inc. (Ames)	AQ	5,000	6-12-00
Don Casterline; Myron Casterline (Van Wert)	UT	2,000	6-14-00
* Rimade, Inc. (Manning)	SW/WW	1,000	8-01-00
R & R Ranch (Osceola)	WW	10,000	8-30-00
Robert Watson (Griswold)	UT	1,700	9-03-00
Coralville Lake Terrace Assoc. (Johnson Co.)	WS	1,500	9-05-00
John Smith d/b/a Four-Corners Tap (Lockridge)	AQ/SW	1,000	9-24-00
Mt. Joy Mobile Home Park (Davenport)	WS	1,500	11-23-00
American Legion - Swisher Post #671 (Swisher)	WS	500	12-25-00
Country Stores of Carroll, Ltd. (Carroll)	UT	4,700	1-17-01
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
* Robert Simon (Dubuque Co.)	AQ/SW	1,600	3-02-01
Michael Bauer (Davenport)	UT	5,100	3-13-01
* Lorene Logue (Lucas Co.)	AQ/SW	125	3-15-01
Paul Riha d/b/a Riha Auto Sales (Vining)	UT	1,200	5-06-01
Iowa Skate U (Iowa Falls)	WS	500	5-11-01
Grace Community Church (North Liberty)	WS	500	5-14-01
Max Dalhauser (West Bend)	UT	670	5-15-01
*#Roger Bockes, et. al. (Tama Co.)	AFO	2,250	5-15-01
*#Neal Anthony d/b/a Anthony's Trucking (LeMars)	AFO	1,200	6-05-01
Denny Wessels d/b/a Denny Wessels Transport	UT	900	6-05-01



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(Bancroft)			
Dallas O'Neal; Linda O'Neal (Council Bluffs)	UT	750	6-05-01
* Seven Ponds Park (Sperry)	WS	100	6-15-01
* R.V. Hopkins, Inc. (Davenport)	AQ	200	6-16-01
Marvin Oberly (Burlington)	WW	1,300	6-27-01
* Edward Degeus (Britt)	AQ	1,000	7-01-01
Teckenburg, Inc.; Jerry Teckenburg (Cedar Rapids)	UT	6,380	7-06-01
David and Marie Phillips (Milo)	WW	1,300	7-09-01
Metro Wrecking d/b/a Metro Wrecking & Excavating	AQ	6,000	7-18-01
(Clive)			
T V S, Inc.; Thomas Kockler d/b/a The Van Shack	AQ	2,000	7-28-01
(Manly)			
Wisconsin North dba National Petroleum, Inc.	UT	5,000	8-04-01
(Clinton)			
Keith Craig; The Farm (Council Bluffs)	UT	3,890	8-08-01
* Michael Roberts (Page Co.)	AQ	225	8-15-01
Krajicek, Inc. d/b/a Krajicek Brothers (Harrison Co.)	AQ	5,000	8-16-01
Martin Marietta Material, Inc. (Ames)	AQ	4,000	8-16-01
Wisconsin North dba National Petroleum (Clinton)	UT	2,840	8-21-01
* Top of Iowa Cooperative (Hanlontown)	AQ	500	9-01-01
Circle Hill Farms, Ltd. (Hamilton Co.)	WW	3,000	9-23-01
Gold-Eagle Cooperative (Wright Co.)	WW	5,000	9-23-01
Long Branch Maintenance Corp. (Earlham)	WW	5,000	9-23-01
Earlham, City of	WW	10,000	9-23-01
Trajet Products, Inc. (Glenwood)	AQ	10,000	9-24-01
Clinton, City of	WW	1,000	9-24-01
Northwest Iowa Area Solid Waste Agency (O'Brien Co.)	SW	4,000	9-25-01
Galva, City of	WW	1,000	9-28-01
Mark Buringrud fdba Carpenter Bar & Grill (Carpenter)	WS	2,500	-----
Carpenter Bar & Grill (Carpenter)	WS	100	-----
Independence Mobile Home Park (Independence)	WS	800	-----
Deer Ridge Estates (Ottumwa)	WS	100	-----
Lawrence Korver d/b/a Korver Development (Orange City)	WW	5,000	-----
Lenertz, Inc.; Fred G. Lenertz; Lawrence Lenertz	UT	10,000	-----
(Tama)			
Ward Land Development LLC; WBD, Inc.; W. David Ward	WW/FP	2,500	-----
Wisconsin North dba National Petroleum (Clinton)	UT	1,000	-----
Nevada, City of	UT	5,600	-----
CF Processing, L.C. (Creston)	AQ	10,000	-----
ABC Disposal Systems, Inc. (Hiawatha)	SW	5,000	-----
	<b>TOTAL</b>	<b>218,630</b>	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser	UT	840	11-01-94
(Lovilia)			
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Oscar Hahn (Solon)	AQ/SW	2,000	8-29-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
ESCORP Associates Ltd.; Arnold Olson (Cedar Rapids)	AQ	10,000	7-09-95
Long Branch Tavern (Monmouth)	WS	100	5-01-96

Iowa Air National Guard - 185 <sup>th</sup> Fighter Wing (Sioux City)	AQ	1,000	
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800	
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Edward Bodensteiner (Des Moines)	UT	3,200	3-31-96
Wunschel Oil, et.al. (Battle Creek)	UT	4,400	12-23-96
Tire-Tech Environmental Systems, Inc. (Muscatine)	SW/WW	2,500	
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000	2-16-98
*Ken Frese (Keokuk Co.)	AQ/SW	175	1-09-97
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Russell Barkema d/b/a Barkema Construction (Wright Co.)	AQ/SW	1,000	3-31-98
Action Jack's Paintball Park (Polk Co.)	SW/FP	10,000	11-07-98
#*Harold Unternahrer (Washington Co.)	AFO	700	5-01-99
Hofer's Danceland Ballroom (Walford)	WS	3,200	4-19-97
Hofer's Danceland Ballroom (Walford)	WS	100	4-23-99
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000	12-19-98
Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800	3-06-99
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/W	3,000	11-04-98
	W		
Jim Walker (Johnson Co.)	AQ/SW	3,000	2-14-99
Iowa Millenium Investors, LLC (Sumner)	UT	4,000	10-12-99
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	10,000	
Ralene Hawkins d/b/a R.J. Express Salvage & Demolition;	AQ/SW	1,000	7-01-00
Clara Lindstadt (Des Moines Co.)			
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000	1-23-00
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000	5-26-00
* Lester Holmes; Todd Holmes (Lucas County)	AQ	4,000	10-15-00
James Harter (Fairfield)	WW	1,800	1-29-00
# Rustad Farms, Inc. (Butler Co.)	AFO	3,000	10-06-00
Crestview Mobile Home Park (Ames)	WW	10,000	8-30-00
10 <sup>th</sup> Hole Food & Spirits (Calamus)	WS	1,000	3-14-00
Winter Mobile Home Park (New Hampton)	WS	2,500	11-19-00
Winter Mobile Home Park (New Hampton)	WS	1,000	6-13-00
Lindahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
Melsha Tap, Inc. (Swisher)	WS	300	5-06-01
Osterdock Store (Guttenberg)	WS	500	10-16-00
West Liberty, City of	WW	5,000	
<b>TOTAL</b>		<b>177,154</b>	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Frank Hulshizer (Benton Co.)	SW	500
American Coals Corporation - Site #5 (Bussey)	AQ/SW	10,000
Wunschel Oil, et.al. (Ida Grove)	UT	10,000
Titan Wheel International, Inc. (Walcott)	WW	10,000
Simonsen Industries, Inc. (Cherokee Co.)	WW	5,000
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Boyer Valley Company (Arion)	WW	8,000

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Wilbur McNear; Gilbert Persinger (Smithland)	UT	2,500
Wilbur McNear d/b/a McNear Oil Co. (Charter Oak)	UT	2,000
Clarence, City of	WW	3,000
Dallas County Care Facility (Adel)	WW	2,500
Margaret and Gene Palmersheim d/b/a G & M Service Mart	UT	1,500
(Greeley)		
#Boomsma Egg Site #1; A.J. DeCoster (Wright Co.)	WW	1,000
Richard Sprague (Tripoli)	AQ/SW	5,000
Bellevue Golf Club, Inc. (Bellevue)	WS	300
Cliff's Place, Inc. (Waverly)	WS	1,500
Brittany Estates Addition (Manchester)	WS	4,000
Robert Frees; Elizabeth Mathes (Washington Co.)	SW	1,000
Sac City, City of	WW	4,000
Pathway Christian School (Kalona)	WS	500
Robert Diehl (Clarke Co.)	WW/WS	5,000
Duane Hanson d/b/a Cedar Valley Tire Recycling (Allamakee Co.)	SW	5,000
# Bernadette Ryan (Delaware Co.)	AFO	3,000
Lonnie King (Marion Co.)	AQ/SW	1,600
West Union Cooperative Co. (West Union)	WW	10,000
Country Terrace Mobile Home Court (Boone)	WW	5,000
Country Terrace Mobile Home Court (Boone)	WS	5,000
Dayton, City of	WW	10,000
# Peter Bockenstedt (Dubuque Co.)	AFO	3,000
# Dan Gotto (Dubuque Co.)	AFO	3,000
Westside Park for Mobile Homes (Burlington)	WW	7,000
Gerald and Judith Vens (Scott Co.)	FP	5,000
Affordable Asbestos Removal, Inc.; Jeffery Intlekofer (Ft. Madison)	AQ	10,000
# Eugene P. Reed, Ltd. (Henry Co.)	AFO	1,500
Julie Rowe d/b/a Jewell's Food & Spirits (Troy Mills)	WS	1,000
# Robert Fisher (Hamilton Co.)	AFO	3,000
Osceola, City of	WW	5,000
Rocky Knoll Mobile Home Park (Forest City)	WS	3,000
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000
# Leonard Rayonds; Randy Schleusner (Hancock Co.)	AFO	3,000
Benefit Water District #2 (Boone Co.)	WS	2,500
Minsa Corporation (Red Oak)	WW	10,000
Dennis Seversson d/b/a Huxley Dry Cleaners (Huxley)	AQ	4,500
Bruening Rock Products, Inc. (Decorah)	WW	8,000
Minnesota Rubber Company (Mason City)	AQ	3,000
New Virginia Sanitary District (New Virginia)	WW	5,000
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000
LT Tap (Waucoma)	WS	500
Minnesota Mining and Manufacturing d/b/a 3M (Knoxville)	AQ	1,000
Alliant Energy Corp. d/b/a Alliant Transportation (Williams)	AQ	10,000
# Leo Pieper (Guthrie Co.)	AFO	2,500
Bettendorf, City of	WW	1,000
Quality Mat Co., Inc. (Waterloo)	AQ	8,500
Ajinomoto USA (Eddyville)	AQ	4,000
Boondocks Truck Haven (Williams)	WS	2,750
# Dan Witt (Clinton Co.)	AFO	3,000
Shell Rock Products, Inc. (Milford)	AQ	10,000
Twin Anchors R.V. Resort, Inc. (Story Co.)	WW	5,000
Kiefer Built, Inc. (Kanawha)	AQ	10,000
AGP Grain Cooperative (Klemme)	AQ	5,000
# Thomas and Jane Kronlage (Coggon)	AFO	3,000
Kinderland, Inc. (Dubuque)	WS	1,500

Brecht Enterprises, Inc. (Iowa Co.)	AQ/SW	4,000
The Farmers Co-Operative Society d/b/a Wesley Coop	AQ	5,000
Casey's General Stores, Inc. (Waukee)	UT	3,800
Charles City, City of	WW	5,000
All-States Quality Foods, L.P. (Charles City)	WW	10,000
Freisen of Iowa, Inc. (Storm Lake)	AQ	10,000
Dodgen Industries d/b/a Cabinet Masters, Inc. (Humboldt)	AQ	6,000
Linwood Mining & Minerals Co. (Davenport)	AQ	10,000
Duane Crees (Muscatine Co.)	AQ/SW	1,160
James Nizzi d/b/a Alice's Spaghettiland (Clive)	WS	3,000
Knox Corporation (Davenport)	UT	6,700
McDonald Construction, Inc.; Dwight McDonald (Eldora)	WW	2,000
R. Excavating, Inc.; Randy Golden (Pottawattamie Co.)	WW	10,000
Braddyville, City of	WW	3,500
Westbrooke Construction Co.; Speer and Lepic (Polk Co.)	WW	4,000
Fred Konfrst d/b/a Fred's Trash Service (Mills Co.)	AQ/SW	5,000
John Saathoff (Grafton)	AQ	500
Don Anderson; Brentwood L.L.C. (Polk Co.)	WW	8,000
# Floyd Kroeze (Butler Co.)	AFO	3,000
Sunnybrook Mobile Home Park (Polk Co.)	WW	5,000
Kay Enterprises, Inc. (Janesville)	AQ	10,000
Carter Lake, City of	SW	2,000
Jefferson, City of	WW	5,000
Forest City Cow Palace and Chuck Wagon Café (Forest City)	WS	250
Casey's General Stores, Inc. (Aplington)	UT	2,500
Richard Thompson d/b/a/ Thompson Auto Parts (Story Co.)	WW/SW	1,000
Envirobate Management Services (Johnston)	AQ	3,000
Jefferson, City of	WW	5,000
Onawa Country Club (Onawa)	WS	1,500
James Kitchen d/b/a Kitchen Construction (Howard Co.)	AQ/SW/F P	10,000
Jemco, Inc.; Bud Nelson (Audubon)	UT	3,570
# Burco Farms, Inc. (Buchanan Co.)	AFO	3,000
Wayne Wheatley; Wheatley Auto and Truck Service (Walnut)	UT	3,900
Shewry L.P.; Don Shewry (Davenport)	WW	7,500
GMNW Investments, L.L.C. (Hamburg)	WW	5,000
Fligg Corp. d/b/a Controlled Asbestos (Mt. Pleasant)	AQ	4,000
Eagle Investors dba Manson Ampride (Manson)	UT	4,650
Gene Moeller Oil Co. (Fort Dodge)	UT	6,000
Noble Ford Mercury, Inc. (Indianola)	WW	5,000
John Hoth (Tama)	UT	9,250
Dostal Construction, Inc. (Tama Co.)	AQ/SW	4,500
Used Tire Sales & Service (Webster Co.)	SW	10,000
Tama Beef Packing, Inc. (Tama)	WW/SW	1,000
Bulk Petroleum Corp. dba Citgo No. 596 (Des Moines)	UT	1,600
James Clark (Logan)	UT	3,500
Farmland Industries, Inc. (Manson)	UT	6,000
Midland Transportation Co. (Marshalltown)	UT	4,460
Midway Oil Company (West Branch)	UT	7,300
Midway Oil Company (Davenport)	UT	5,790
James A. Six (Washington Co.)	AFO	1,500
Charles Hagedorn dba Hagedorn Construction (Dickens)	AQ	1,000
Lester Davis (Polk Co.)	AQ	1,100

**TOTAL 521,280**

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
McGill Asbestos Abatement Co. (Harlan)	AQ	2,000
Country Hills Water Corporation (Peosta)	WS	500
Al Luchtel d/b/a K & D Painting, Ltd. (Carroll)	SW/HC	1,500
Iowa State University Heating Plant (Ames)	AQ	600
Adair, City of	WW	3,000
* R.V. Hopkins, Inc. (Davenport)	AQ	500
* Michael Roberts (Page Co.)	AQ	75
Mid River Marina (Swisher)	WS	250
Peter Orth f/d/b/a Strauss Bros. Conoco (Burlington)	UT	4,400
<b>TOTAL</b>		<b>12,825</b>

The \$860 penalty assessed to G. Michael Traul (Ottumwa) has been waived.

The \$1,150 remaining penalty assessed to Home Asbestos and Lead Abatement Services (Johnston) has been waived.

The \$250 penalty assessed to the City of Larrabee has been waived.

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
10 <sup>th</sup> Hole Food & Spirits Calamus	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate	Order/Penalty	Referred	3/19/01
Affordable Removal, Inc.; Jeffrey Intelkofer Iowa City (6)	Asbestos  Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Motion for Partial Summary Judgment Ruling Denying Motion Trial Date	3/20/00 4/19/00 2/26/01 4/20/01 2/04/02
Affordable Removal, Inc. Jeffrey Intelkofer Iowa City (6) <b>UPDATED</b>	Asbestos  Air Quality	DNR Defendant	Defense	Petition Filed Answer Ruling Defendant's Notice of Appeal	12/28/00 1/18/01 7/09/01 7/30/01
Bierman, Elaine and Kurt d/b/a Osterdock Store Guttenberg <b>NEW</b>	Drinking Water	Monitoring/Reporting – Bacteria; MCL – Bacteria; Public Notice	Order/Penalty	Referred	7/16/01
Castenson, David; Kristi A. Castenson, Barbara June Cummins; Velma Castenson d/b/a B & D Farms Webster Co. (2)	Wastewater	DNR Defendant	Defense	Petition Filed Motion to Strike Answer Petitioner's Motion to Adjudicate Law Points State's Resistance	7/17/00 8/07/00 8/15/00 10/03/00 10/16/00
Crane, John & Frieda d/b/a Hillside Mobile Home Park Ames (5)	Waste-water	Discharge Limits	Order	Referred	2/19/01

Harter, James Brighton <b>UPDATED</b>	(6)	Waste- water	Stormwater Operation Permit	– Without	Order/Penalty	Referred Motion for Judgment Hearing Date Ruling (\$1,800/Admin.)	11/20/00 05/04/01 07/16/01 07/16/01
Holnam Incorporated Mason City (2)		Air Quality	Excess Emissions		Referred to Attorney General	Referred	3/15/99
Huyser, James; Trucking Lovilia (5)	Trust	Undergro und Tank	Site Assessment		Referred to Attorney General	Referred Petition Filed Dismissed for Lack of Service Bankruptcy Petition Filed	11/21/94 4/18/96 9/20/96 9/20/96
Indian Creek Corp. Jasper Co. (5)		Animal Feeding Operation	Failure to Retain; Freeboard Violations; Failure to Have Approved MMP		Referred to Attorney General	Referred Petition Filled Trial	4/17/00 9/27/00 10/10/01
Larson, Daryl Jones Co. <b>UPDATED</b>	(1)	Animal Feeding Operation	Freeboard Cleanup Costs		Referred to Attorney General	Referred Petition Filed Answer Motion for Summary Judgment	5/17/99 11/02/00 12/07/00 7/16/01
Ledenbach, Jim d/b/a Paper Recovery Cedar Rapids (1)		Solid Waste	Illegal Disposal		Order/Penalty	Referred Petition	4/17/99 6/01/01
Lehigh Portland Cement Co. Mason City (2)		Air Quality	Construction Permit	Without	Referred to Attorney General	Referred Petition Filed Trial Date	8/17/98 11/05/99 10/29/02
Lindhahl, Don and Tim d/b/a Lindhahl & Sons Salvage Boone (5)		Air Quality Solid Waste	Open Burning Illegal Disposal		Order/Penalty	Referred	5/21/01
Melsha Tap, Inc. Swisher <b>NEW</b>	(6)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; public Notice		Order/Penalty	Referred	7/16/01
Morgan, Ron d/b/a Action Jack's Paintball Park Polk Co. (5)		Solid Waste	Illegal Disposal		Order/Penalty	Referred	2/15/99
Nelson, Paul Crestview Mobile Home Park Ames (5)	d/b/a	Wastewat er	Discharge Limits		Order/Penalty	Referred	2/19/01
Organic Technologies; Tim						Referred	12/15/97

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Danley; Ken Renfrow; Mike Danley Warren Co. (5)	Solid Waste	Permit Violations	Referred to Attorney General	Petition Filed Application for Temporary Injunction Temporary Injunction Trial Date Partial Judgment (Clean-up Order)	10/02/98 2/04/99 4/19/99 9/13/00 9/28/00
West Liberty, City of (6) <b>NEW</b>	Wastewater	Discharge Limits; Operational Violations	Order/Penalty	Referred	7/16/01
White, Robert Jeff White, Dave Dallas Center (5) <b>UPDATED</b>	Air Quality; Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Dismissed Without Prejudice Petition Against Dave White Filed Answer Filed Trial Order (Clean-Up and Injunction) Penalty Hearing	4/20/98 2/05/99 9/24/99 11/15/99 12/06/99 1/31/01 2/27/01 10/04/01
Williams Pipeline Company LLC Waterloo/Dubuque/Milford (1, 3) <b>NEW</b>	Air Quality	Construction Without Permit	Order	Referred	7/16/01
Winter Mobile Home Park New Hampton (1)	Drinking Water	Operation Without Permit; Monitoring/Reporting – Bacteria	Order/Penalty	Referred	4/16/01
Wunschel Oil Co.; Vernus Wunschel and Jaquelyn Wunschel Battle Creek (3) <b>UPDATED</b>	Underground Tank	Site Assessment	Referred to Attorney General	Referred Motion for Judgment Consent Decree (\$6,400/Admin.) Referred Petition Filed Defendant's Motion to Dismiss State's Resistance Denial of Defendant's Motion to Dismiss Motion for Partial Summary Judgment Hearing Order Granting Partial Summary Judgment Notice of Appeal State's Motion to Dismiss Defendant's Motion to Dismiss State's Resistance Defendant's Dismissal of Appeal Order Denying Defendant's Motion to Dismiss	1/17/95 8/28/96 12/13/96 3/30/98 9/01/00 9/08/00 9/19/00 11/07/00 2/16/01 4/26/01 5/09/01 6/07/01 6/18/01 6/19/01 6/20/01 7/06/01 7/20/01
Wunschel Oil Co.; Vernus Wunschel and Jaquelyn Wunschel Ida Grove (3) <b>UPDATED</b>	Hazardous Condition	Site Access; Other	Referred to Attorney General	Referred Petition Filed Defendant's Motion to Dismiss State's Resistance State's Application for Temporary Injunction Hearing on Temporary Injunction Denial of Defendant's Motion to Dismiss	6/19/00 9/01/00 9/08/00 9/19/00 10/13/00 10/24/00 11/07/00

Temporary Injunction Granted	11/07/00
Motion for Summary Judgment	2/20/01
Hearing	4/27/01
Order Granting Summary Judgment (Injunction)	5/09/01
Notice of Appeal	6/07/01
State's Motion to Dismiss	6/18/01
Defendant's Motion to Dismiss	6/19/01
State's Resistance	6/20/01
Defendant's Dismissal of Appeal	7/06/01
Order Rejecting Defendant's Motion to Dismiss	7/06/01

Zook, Russell d/b/a Haskins Recycling Ainsworth (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Entry Default Order Granting Default (\$35,000/Civil; \$5,000/Admin. and Injunction)	5/17/99 9/12/00 2/19/01 6/11/01
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Date Received	Name of Case	F O	Action Appealed	Program	Assigned	Status
11/03/89	Bridgestone/Firestone, Inc.	5	Site Registry	HC	Tack	Hearing continued pending negotiations. Settlement proposed 8/96. Status report requested from land quality bureau 12/1/99.
5/08/90	Texaco Inc./Chemplex Co. Site	6	Site Registry	HW	Tack	Settlement offer to be renewed 3/00.
6/20/90	Des Moines, City of	5	NPDES Permit Cond.	WW	Hansen	<b>EPD met with City to resolve appeal issues. Follow-up with EPD regarding status-3/97. 12/28/99 – F.O. 5 letter to City regarding resolution of permit issues. 3/6/00 – F.O. 5 met with City concerning permit issues. 2/5/01 – WW drafting new permit. 4/30/01 – WW contacted regarding status of new permit. Draft permit sent for City review and public notice on 4/19/01. 8/01/01 – Dept. permits section contacted concerning status of permit re-issuance. Comments from City on proposed permit have been received.</b>
7/02/90	Keokuk Savings Bank and Trust; Keokuk Coal Gas Site	6	Site Registry	HW	Tack	Hearing continued. Status report requested from land quality bureau on 12/1/99.
7/30/90	Key City Coal Gas Site; and Howard Pixler	1	Site Registry	HW	Tack	Decision appealed (Pixler) Site remediation completed. Status report requested from land quality bureau 12/1/99.
9/25/91	Archer Daniels Midland	6	Admin. Order	SW	Tack	Closure permit issued 1/10/00. Closure to be completed by 9/1/01.



5/12/92	Paris & Sons, Inc.	1	Site Registry	HC	Wornson	Bankruptcy dismissed. Negotiations with creditor to enroll in LRP and complete site assessment.
11/16/92	Frank Hulshizer	1	Admin. Order/Penalty	SW	Tack	Settled. Abatement agreement signed 9/21/99. Penalty to be forgiven upon completion of clean-up.
4/05/93	Mapleton, City of	4	WW Operator Certification	WW	Hansen	<b>Under review by EPD. Appeal discussion with EPD staff. 2/28/00 – Letter to City attorney regarding setting for hearing. 3/00 – Dept. reviewing City Engineer's submittal. 6/26/01 – Dept. permits section contacted concerning review of information supplied by City engineer. 7/01 – City referred for Admin. Order for wastewater violations.</b>
9/09/94	American Coals Corp., Site 5 (Bussey)	5	Admin. Order/Penalty	SW/AQ	Tack	Release of closure funds approved by court. Case to be closed when transfer complete.
10/07/94	Titan Wheel International	6	Admin. Order/Penalty	WW	Hansen	Revised BMR report submitted/reviewed by WW Permits. Letter to facility regarding report. 3/2/00 – Letter to attorney regarding setting appeal for hearing. 3/23/00 – Response received from attorney regarding appeal. 9/18/00 – Meeting with Titan to discuss compliance, treatment agreement and permit. Company requested to submit BMR and Toxic Organic Management Plan. 10/25/00 – Titan staff met with Dept. to discuss Titan's treatment agreement with the City and other issues. 3/27/01 – Revised treatment agreement entered into between Titan and City of Walcott. 5/31/01 – FO contacted regarding appeal resolution.
1/13/95	Simonsen Industries, Inc.	5	Admin. Order/Penalty	WW	Hansen	<b>2/28/95 - Submittal by facility's engineer regarding land application of sludge. Under review by WW permits staff. Update requested from WW staff. 2/1/00 – Report on compliance requested from FO and WW staff. 2/2/00 – Permit to be issued to facility. 6/29/00 – Status report on permit requested from WW permit staff. 9/00 – Per WW permit staff, company's engineer to submit further information prior to issuance of permit. 4/30/01 – Status report requested from WW section engineer. 5/1/01 – Company engineer needs to provide further information to process permit. Engineer was contacted and agreed to provide requested information.</b>

						6/29/01 – Status report on permit issuance requested from Dept. WW engineer. 7/31/01 – Per WW permits section Dept. received modified proposal for land application on 6/20/01. Proposal under review.
3/23/95	American Coals Corp.	5	Admin. Order	SW	Tack	Release of closure funds approved by court. Case to be closed when transfer complete.
4/13/95	The Weitz Corp.; Barton Solvents, Inc.	5	Admin. Order	HC	Tack	Remediation plan received 5/27/96. 6/9/00 – Initial remedial measures completed. Final treatment system currently being designed.
6/20/95	Toledo, City of	5	Permit Conditions	WW	Hansen	Dept. letter to facility's engineer regarding resolving appeal. 1/3/00 – Revised WLA and permit limits sent to facility. 1/26/00 – Dept. letter to WW engineer regarding construction schedule to meet revised permit limits. 2/28/00 – Follow-up letter to City regarding construction schedule. 3/20/00 – Response from City attorney with agreement to submit construction schedule by 4/20/00. 4/27/00 – Discussion with City attorney regarding City's schedule. 6/14/00 – Letter received from attorney requesting meeting to discuss compliance schedule. 7/28/00 – Letter to City attorney scheduling meeting for 8/3/00. Letter from City attorney regarding scheduling a meeting. 9/25/00 – Meeting attended by FO5, city attorney and city engineer regarding compliance schedule. City to submit revised schedule by 11/15/00 for submittal of flow study and preliminary engineering report. 11/14/00 – Letter from City Engineer with proposed schedule. 4/1/01 – City to begin work on Plan of Action. 10/31/01 – City to submit Plan of Action to Dept. for review.
7/05/95	Boyer Valley Co.	4	Admin. Order/Penalty	WW	Hansen	<b>Informal meeting held for 6/7/96. Response from facility due 6/28/96. Response received from facility 7/96. 3/2/00 – Letter to attorney concerning appeal resolution. 3/17/00 – Letter received from company attorney. 5/1/01 – Letter to company attorney regarding settlement. 5/16/01 – Company attorney contacted Dept. to discuss appeal. 6/29/01 – Dept. follow-up letter to company's attorney. 7/20/01- Settlement offer received from company's attorney.</b>

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7/10/95	Gilbert Persinger/Smithland Store	3	Admin. Order/Penalty	UT	Wornson	SCR received - rejected. 4/01 - Received Tier 2.
8/01/95	Wilbur McNear d/b/a McNear Oil Co./Charter Oak	4	Admin. Order/Penalty	UT	Wornson	SCR received/rejected. Placed on state lead. Negotiating penalty.
9/20/95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	6	Admin. Order	WW/HC	Tack	Negotiating before filing. Attorneys contacted 2/99. Reassigned 6/1/01/
1/12/96	Clarence, City of	6	Admin. Order/Penalty	WW	Hansen	<b>1/96 - Facility inspected by FO 6. 9/96 letter from facility attorney stating construction completed. 2/1/00 - Status report on compliance requested from FO 6. 2/2/00 - Dept. to send settlement offer to City. City has returned to compliance. 2/28/00 Settlement offer to City attorney. 3/30/00 - Follow-up letter to attorney. 4/21/00 - Contact by new City attorney. City will consider settlement offer at 5/8/00 City Council meeting and respond by 5/20/00. 5/1/01 - Letter to City attorney regarding settlement. 5/30/01 - Follow-up letter sent to City attorney. 6/22/01 - Per telephone conversation with City attorney, Dept. settlement offer on city council agenda for 7/9/01. 8/1/01 - Letter sent to City attorney.</b>
1/25/96	Hidden Valley Mobile Home Park	6	Admin. Order/Penalty	WW	Clark	Compliance inspection 9/27/00. Satisfactory compliance achieved. Penalty settlement negotiations commenced.
3/11/96	Dallas County Care Facility	5	Admin. Order/Penalty	WW	Hansen	4/01 - FO5 inspection. Facility is not in compliance. 6/01 - New order to be issued to facility.
5/07/96	Lakeview Mobile Home Park	5	Admin. Order/Penalty	WW	Hansen	6/20/96 - informal meeting held. Facility to provide settlement offer by 7/15/96. Settlement offer received from facility - under review. 2/27/99 FO contacted regarding appeal resolution. 5/1/01 - FO5 contacted regarding resolution of appeal.
5/16/96	Grand Laboratories, Inc.	3	Permit Denial	WW	Hansen	<b>Information received and reviewed by EPD. Settlement offer and revised permit sent to facility 7/97. Response received 8/97. Under review by EPD. Facility to provide further response and settlement offer to DNR by 3/15/98. 3/13/98 Dept. received proposal from facility engineer. 3/20/98 Dept. review of proposal completed. 8/98</b>

						– Letter to Grand Labs rejecting their proposal. 9/25/98 letter from Grand Labs regarding settlement. Grand Labs to submit new settlement 3/99. 5/99 Grand Labs submitted settlement proposal; under review by WW and WQ staff. 2/29/00 – Response received from WQ engineer. Staff reviewing for decision. 8/1/01 – Letter to company concerning resolving remaining issue in appeal.
8/09/96	Gene and Margaret Palmersheim d/b/a G & M Service Mart 8LT593	1	Admin. Order/Penalty	UT	Wornson	Tier 2 received. Negotiating penalty. Placed on State lead.
10/28/96	Fischer Controls International		Permit Conditions	WW	Hansen	5/10/01 – Letter to company regarding resolution of appeal. 6/13/01 – Follow-up letter to company. 7/12/01 – Letter from company withdrawing appeal. Case closed.
2/19/97	Cliff's Place, Inc.	1	Admin. Order/Penalty	WS	Hansen	Compliance initiated. 6/28/01 – Letter to facility about resolving appeal. 7/12/01 – Settlement offer received from WS attorney. 7/19/01 – Letter sent accepting offer. Appeal to be closed upon receipt of penalty.
7/22/97	Robert P. Frees; Elizabeth R. Mathes	6	Admin. Order/Penalty	SW	Tack	Settlement reached. Cleanup underway.
1/16/98	Pilgrim Heights Camp		NPDES Permit Conditions	WW	Hansen	5/1/01 – WW staff contacted regarding resolution of appeal. 7/31/01 – Status report request from WW permits section.
1/23/98	Sac City	3	Admin. Order/Penalty	WW	Hansen	Status report received from city's consultant. 2/1/00 – Status report on WW compliance requested from FO 3. 2/28/00 – Settlement offer sent to attorney. 3/28/00 – City attorney letter received. 3/29/00 – Letter to attorney regarding scheduling settlement meeting and setting case for hearing. 4/17/00 – Dept. meeting with City attorney and officials to discuss settlement. 6/28/00 – Sent to DIA to be set for hearing. 7/25/00 – DIA set hearing for 9/20/00. 9/11/00 – City attorney filed motion for continuance to discuss settlement further. Hearing reschedule for 11/27/00. 11/22/00 – Settled. City to contribute \$2,400 for SEP to Sac Co. Conservation Board and repair biodisc at City's WWTF. Settlement to be placed in administrative consent order.

						Consent order drafted. 4/27/01 – Consent order sent to City attorney for Mayor's signature. 5/29/01 Signed consent order received from City attorney. 5/29/01 – Consent order sent to Director for signature. 6/01/01 – Consent order signed by Director and issued. 6/28/01 – Dept. drafted joint motion to dismiss appeal and sent to City attorney for signature and also to ALJ. 7/11/01 – Motion to dismiss received. City to pay SEP in lieu of penalty. Case closed.
3/16/98	Pathway School Christian	6	Admin. Order/Penalty	WS	Hansen	3/1/00 – Status report requested of FO. 3/2/00 – Status report received. 4/28/00 – Letter to WS concerning resolution of appeal. 5/1/01 – Status report requested from WS section regarding compliance. 5/31/01 – Status report requested from WS section concerning compliance. WS section reports facility is in compliance with monitoring requirements. 6/25/01 – Per FO6 the WS is in compliance with MOR requirements and was operating/maintaining the chlorination system properly as of last inspection. 7/19/01 – Settlement offer sent to school.
7/01/98	Ag Processing, Inc.	4	Permit Conditions	AQ	Preziosi	Negotiations continue.
8/18/98	University of Iowa	6	Permit Conditions	WW	Hansen	Settlement offer sent 10/98. Follow-up letter sent 3/22/99. U of I to submit response to Dept. settlement offer by 5/28/99. Information submitted by U of I. Wastewater staff revised permit in response to information received. 3/9/01 – Settlement offer sent by Dept. 4/27/01 – U of I agreed in telephone conversation to send letter stating agreement with proposed permit amendment and requesting dismissal of appeal. 5/29/01 – U of I informed Dept. that letter withdrawing appeal would be sent by 5/31/01. Amended permit will then be issued by Dept. 6/5/01 – Dept. issued amended NPDES permit and sent letter closing appeal. 6/24/01 – Letter from U of I agreeing to settlement and amended permit – letter withdrew appeal upon issuance of amended permit. 7/01 – Appeal closed.
10/03/98	Ag Processing, Inc. (Emmetsburg)	4	Permit Exemption Denial	AQ	Preziosi	Settlement close.

10/06/98	M & W Pallett Co.	6	Admin. Order	SW	Tack	Clean-up near completion as of 6/20/00. Pallets 95% ground. Dept. assisting in identifying markets for mulch.
10/08/98	West Liberty, City of	6	Admin. Order/Penalty	WW	Hansen	<b>Informal procedures requested.</b> 2/1/00 – Status report requested of FO 6. 2/02/00 – Report received from FO. 2/28/00 – Letter to attorney to schedule meeting resolving appeal. 2/28/00 – Status report concerning I/I work received. 3/24/00 – Meeting scheduled for 4/14/00 to discuss resolving appeal. 4/14/00 – Met with City attorney and officials concerning appeal. 7/26/00 – Dept. settlement offer drafted/under review by Dept. staff. 3/01 and 4/01 – Enforcement/settlement discussions among Dept. staff. 5/8/01 – Settlement offer sent to City attorney. 5/23/01 – Meeting held to discuss settlement offer. 6/28/01 – Proposed referral concerning NPDES permit violations to be place on July EPC agenda. 7/16/01 – Referral to AG office by EPC.
11/19/98	Jacobs Energy Corporation		Permit Denial	AQ	Brabec	Negotiating before filing.
11/30/98	Robert Diehl	5	Admin. Order/Penalty	WW/WS	Murphy	5/1/01 – Preliminary engineering report approved 3/01; will monitor progress.
12/16/98	Richard Swailes		Permit Denial	FP	Clark	5/18/00 – Notification of imminent transfer to DIA. 7/5/00 - Appellant's attorney requests additional time for expert consultation.
1/13/99	Bernadette Ryan	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
1/20/99	Lonnie King	5	Admin. Order/Penalty	AQ/SW	Tack	Clean-up satisfactory. Settlement offer made 8/8/00.
3/04/99	Dayton, City of	2	Admin. Order/Penalty	WW	Murphy	5/1/01 – City progressing on facility improvements. Will monitor for progress.
3/08/99	Peter Bockenstedt	1	Admin. Order/Penalty	AFO	Clark	5/17/01 – Response to Dept. settlement invitation received. 7/30/01 - \$500 received. Case closed.
3/16/99	Des Moines Independent School District – North High School	5	Site Registry	HC	Tack	Settlement letter sent by solid waste section 12/20/99.

3/18/99	Ag Processing, Inc. (Sergeant Bluff)		Title V Operation Permit Conditions	AQ	Preziosi	Settlement close.
<b>3/23/99</b>	<b>Matthew M. Daly</b>	<b>1</b>	<b>Admin. Order/Penalty</b>	<b>AFO</b>	<b>Clark</b>	<b>2/8/01 – Settlement offer by Daly. 2/27/01 Counter offer by Dept. 5/11/01 – Revised settlement offer by Daly. 6/26/01 – Settled. Penalty paid. Case closed.</b>
3/23/99	Daniel J. Gotto	1	Admin. Order/Penalty	AFO	Clark	<b>8/2/01 – Settlement letter sent. Settlement payment due 11/1/01.</b>
4/15/99	Robert Simon	1	Admin. Order/Penalty	AQ/SW	Tack	Settled. Paying penalty on payment plan.
4/26/99	Gerald and Judith Vens	6	Admin. Order/Penalty	FP	Clark	Negotiating before filing.
7/19/99	Celotex Corp. (Ft. Dodge)	2	Permit Conditions	AQ	Preziosi	Settlement close.
7/27/99	Affordable Asbestos Removal; Jeffry Intlekofer	6	Admin. Order/Penalty	AQ	Brabec	<b>Hearing held 4/28/00. Judgment for DNR Appeal filed. Awaiting transcripts and briefing schedule. Initial brief due 9/25/00. Scheduled to go before November EPC meeting. 11/20/00 - EPC affirmed ALJ's proposed decision. Petition for judicial review filed 12/28/00. Record forwarded to Linn County Court and case given to the Attorney General. Judicial review briefs have been filed. Linn County District Court issued ruling and affirmed in part, remanded in part. Affordable has filed an appeal to the Supreme Court on the ruling. AG will be handling appeal to Supreme Court.</b>
9/08/99	Linwood Mining & Minerals	6	Permit Conditions	AQ	Preziosi	Settlement close.
9/10/99	Linwood Mining & Minerals	6	Permit Denial	AQ	Preziosi	Negotiating before filing.
9/13/99	Eugene P. Reed	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
9/13/99	CIPCO	1	NPDES Permit Conditions	WW	Hansen	12/29/99 – Appeal reviewed by wastewater permit writer. 3/5/01 – Letter sent regarding resolution of appeal and Dept. position on appeal issues. 5/11/01 – Follow-up letter sent regarding appeal. 6/20/01 – Settled. Letter from company accepting Dept. proposal for resolving appeal. Amended permit to be issued 8/01.
9/21/99	Julie Rowe d/b/a	1	Admin.	WS	Murphy	6/29/01 – New MCL violations;

	Jewel's Food & Spirits		Order/Penalty			letter sent regarding resolution.
10/22/99	Robert Fisher	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
11/10/99	Michael L. Roberts	4	Admin. Order/Penalty	AQ	Tack	<b>Settled. \$750 payment plan. \$75 per month beginning 1/15/01. Payments are on schedule.</b>
11/12/99	Osceola, City of	5	Admin. Order/Penalty	WW	Hansen	1/4/00 – FO 5 letter to City requesting complete plan of action by 5/15/00. 5/31/00 – Status report on plan of action submittal requested by FO. 6/28/00 – Sent to DIA to be set for hearing. 7/25/00 – DIA set hearing for 9/29/00. 8/17/00 – Meeting with city officials and engineer to discuss settlement. 9/20/00 – Joint motion for continuance filed with ALJ to allow parties more time to pursue settlement of penalty and SEP. 10/00 – Hearing continued until 11/28/00. 11/22/00 – Settled. Agreement to be place in administrative consent order. 1/29/01 – Consent order drafted and being reviewed by DNR staff. 3/28/01 – Dept. letter and consent order to City for signature. 5/01/01 – City contacted regarding status of Mayor signing consent order. 5/30/01 – Letter received from City engineer requesting revision of schedule in consent order. 6/27/01 – FO meeting with City concerning compliance status of facility. 8/1/01 – Letter and revised consent order to City for signature.
11/15/99	Industrial Energy Applications	1	Permit Denial	AQ	Preziosi	Meeting held 8/28/00. Still negotiating. Requested guidance from EPA. Deadline 6/01/01. 6/29/01 – Awaiting EPA response.
11/15/99	Rocky Knoll Mobile Home Park	2	Admin. Order/Penalty	WS	Tack	Compliance nearly completed. Penalty negotiations to begin upon compliance.
11/19/99	Climax Molybdenum Co.	6	Permit Denial	AQ	Preziosi	Meeting held 8/28/00. Still negotiating. Requested guidance from EPA. Deadline 6/01/01. 6/29/01 – Awaiting EPA response.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
12/10/99	Leonard Rayhons; Randy Schleusner	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
12/17/99	Edward Degeus	2	Admin.	AQ	Brabec	<b>Settled. Consent amendment issued. Penalty payment schedule</b>



			Order/Penalty			established and on schedule. 7/28/01 – FO letter regarding remaining penalty. Party given until 8/15/01 to respond. No response to date.
1/11/00	Farmland Industries	2	Permit Denial	AQ	Preziosi	Negotiating before filing.
1/20/00	New Virginia Sanitary Sewer District	5	Admin. Order	WW	Murphy	5/31/01 – Facility upgrade is proceeding; will monitor progress.
2/07/00	Benefit Water District #2	5	Admin. Order/Penalty	WS	Murphy	7/9/01 – Letter sent regarding settlement.
2/22/00	MINSA Corporation	4	Admin. Order/Penalty	WW	Murphy	5/31/01 – Permit close to being issued; penalty settlement will be discussed at that time.
3/02/00	Dennis Severson d/b/a Huxley Dry Cleaners	5	Admin. Order/Penalty	AQ	Preziosi	Hearing held 7/17/01. Awaiting ALJ decision.
3/21/00	Bruening Rock Products, Inc.	1	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
4/05/00	Minnesota Rubber	2	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
4/14/00	Stateline Cooperative	2	Admin. Order	HC	Wornson	Tier 2 report submitted 11/28/00. High risk. review for further corrective action.
4/21/00	LT Tap	1	Admin. Order/Penalty	WS	Clark	Negotiating before filing.
4/24/00	Tama Paperboard	5	Admin. Order/Penalty	AQ	Preziosi	Settled. Penalty payment received. Case closed.
4/24/00	Carroll, City of	4	Permit Conditions	WW	Hansen	City to file appeal of final NPDES permit. Prior notice of appeal was in response to draft permit. 10/4/00 – Informal meeting scheduled with city officials to discuss permit issues. Dept. staff discussing how to proceed. 1/31/01 – City Engr to submit preliminary engineering report. 2/28/01 – Dept. received City's preliminary engineering report. 3/2/01 – Dept. letter requesting a schedule G be submitted to complete the report. 3/7/01 – Incomplete schedule G submitted. 3/8/01 – Dept. letter of comments and request that schedule G be resubmitted with required information. 3/9/01 – Revised schedule G submitted. 4/30/01 – WW permit section engineer completed review of revised preliminary engineering report and drafted comment letter. 5/1/01 – Comment letter sent to City by Dept. engineer concerning

						review of preliminary engineering report. 6/29/01 – Status report requested from WW permits engineer and WS section engineer. 7/5/01 – Response received from City engineer on Dept. letter on revised facility plan.
4/26/00	State Wide Metal Recycling, Inc.; Fred Bovee	5	Admin. Order/Penalty	SW/HC	Tack	District court ordered clean-up underway. Third party clean-up of site started 2/23/01. Final clean-up to be completed after thaw.
5/04/00	Iowa State University Heating Plant	5	Admin. Order/Penalty	AQ	Preziosi	Settled. 7/10/01 – Penalty received. Case closed.
5/10/00	3M Company	5	Admin. Order/Penalty	AQ	Preziosi	Negotiations continue.
5/12/00	Martin Marietta Materials, Inc.	1	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
6/06/00	Alliant Energy	5	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
6/08/00	Leo Pieper	4	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
6/08/00	Ajinomoto	6	Admin. Order/Penalty	AQ	Brabec	Settled. Facility will sign a consent amendment and pay a reduced penalty.
6/14/00	Quality Mat Co., Inc.	1	Admin. Order/Penalty	AQ	Brabec	4/3/01 – Decision affirming the order. 5/21/01 – EPC finalized decision. Settled. Facility will sign a consent order regarding payment. Expect signature by mid-August.
7/10/00	Boondocks Truck Haven Café	5	Admin. Order/Penalty	WS	Hansen	Compliance initiated by facility. 9/00 – per attorney for café, disinfection system installed. 10/2/00 – FO 2 report as-builts need to be submitted for chlorination system and bacteria sampling plan needs to be updated. WS has begun submitting monthly reports. New WS permit to be issued. 3/23/01 – FO 2 inspection of new chlorination equipment. 4/6/01 – New WS operation permit issued. 4/18/01 – FO to visit WS. 5/01 – Facility returned to compliance. 6/27/01 – Settlement offer sent to facility attorney. 7/26/01 – Penalty payment received. Case closed.
7/10/00	Lincoln, City of	5	Admin. Order	WW	Hansen	10/5/00 – FO 5 to set up meeting with City to discuss resolving appeal. 11/21/00 – FO 5 requests that case be sent to DIA to be set for hearing. 5/1/01- City engineer

						has not submitted final engineering report. 5/1/01 – Notice of appeal sent to DIA to be set for hearing. 5/11/01 – Hearing set for 6/29/01. 6/22/01 – Settled. City engineer sent letter to ALJ accepting new schedule and agreeing to withdrawal of appeal. 6/25/01 – Amended order to Director for signature. 7/17/01 – Amended order signed and issued. 7/25/01 – Motion to dismiss sent to ALJ. 7/27/01 – ALJ order issued dismissing appeal based on amended order. Case closed.
7/13/00	Dan Witt	6	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
7/31/00	Shell Rock Products, Inc.	2	Admin. Order/Penalty	AQ	Preziosi	Hearing held 6/25/01. 7/6/01 - ALJ issued proposed decision affirming order.
8/02/00	Wacker Biochem Corp.	5	Permit Conditions	AQ	Preziosi	Negotiating before filing.
8/11/00	Loyal and Marilyn Rue; James and Elizabeth Fritz; De. Stephen McCargar; William and Jo Iverson; Dennis Pottratz; Cynthia Kay; Elyse Cohrs; Deanna Kloster; and Frank Holland (Wal-Mart)	1	Permit Issuance	FP	Clark	12/12/00 – Proposed decision. 1/13/01 – Appealed to EPC. 4/16/01 – EPC decision. 5/15/01 – Rehearing request. 5/21/01 – No action by EPC regarding rehearing. 5/25/01 – Rehearing request deemed denied. 6/19/01 – Petition for judicial review. 7/16/01 – Voluntary dismissal of judicial review. Case closed.
8/11/00	Twin Anchors RV Resort	5	Admin. Order/Penalty	WW	Tack	Construction permit application on file. Responsible part is working with WW section to achieve compliance. Penalty to be negotiated after compliance is achieved.
8/11/00	Kiefer Built	2	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
9/05/00	Thomas Kronlage	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
9/07/00	Iowa City, City of	6	Consent Order	WW	Murphy	3/27/01 – Letter to City approving SEP. 7/25/01 – Implementation schedule submitted. Case closed.
9/27/00	Brecht Enterprises, Inc.	6	Admin. Order/Penalty	AQ/SW	Tack	Settlement offer made to former attorney on 11/30/00. Offer renewed 5/2/01 directly to responsible party. New attorney retained by responsible party. Settlement negotiations resumed.
9/27/00	Farmers Cooperative Society (Titonka)	2	Admin. Order Penalty	AQ	Preziosi	Negotiating before filing.

9/28/00	Kinderland, Inc.	1	Admin. Order/Penalty	WS	Hansen	5/01/01 – WS still not in compliance with all monitoring requirements. 5/01/01 – Sent to DIA to be set for hearing. 5/9/01 – Progress report on connection to alternate water source received. 5/11/01 – Hearing set for 7/3/01. 6/5/01 – Hearing continued to 9/3/01 to attempt to settle. 6/26/01 – WS has now connected to another water source and will request to be reclassified as a non-pws. 7/9/01 – Settled. Documentation provided regarding connection to alternate water source. Request for reclassification received. Facility needs to submit penalty payment and statement regarding what it will do with well.
9/29/00	Charles City, City of	2	Admin. Order/Penalty	WW	Murphy	7/31/01 – Settled. Awaiting SEP payment.
10/02/00	Agriprocessors, Inc.	1	Variance Denial		Murphy	Hearing continued. 5/31/01 – Preliminary engineering report submitted.
10/03/00	Casey's General Store (Waukee)	5	Admin. Order/Penalty	UT	Wornson	8/01/01 – Sent to DIA to be set for hearing.
10/03/00	All-States Quality Foods	2	Admin. Order/Penalty	WW	Murphy	7/31/01 – Settled. Awaiting SEP payment.
10/03/00	Friesen of Iowa, Inc.	3	Admin. Order/Penalty	AQ	Preziosi	Meeting held 6/19/01. Negotiations continue.
10/04/00	Krajicek, Inc. d/b/a Krajicek Bros.; Sara and Leonard Krajicek	4	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
10/05/00	Sylvan Acres	1	Admin. Order	WS	Hansen	10/30/00 – Call received from representative of WS concerning installation of required chlorination equipment on two wells at WS until their connection to rural water. Specifics of WS's return to compliance under discussion between WS representatives, FO 1 and Dept. WS section. 2/17/01 – WS to draft new permit to allow use of temporary pellet chlorinators until rural water becomes available. 5/1/01 – Permit status requested from WS section. 6/15/01 – Letter sent regarding appeal resolution. 7/6/01 – Letter sent by WS requesting that appeal be held in abeyance pending completion of connection to another water supply.

## Environmental Protection Commission Minutes

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10/06/00	Linwood Mining & Mineral Corp.	6	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
10/06/00	Dodgen Industries, Inc.	2	Admin. Order/Penalty	AQ	Preziosi	Meeting held 6/01. Settlement close.
10/06/00	Duane Crees	6	Admin. Order/Penalty	AQ/SW	Tack	<b>Settlement offer made 11/14/00. Responsible party's attorney contact monthly. Awaiting response to settlement offer.</b>
10/20/00	AGP, Ag Processing	6	Permit Conditions	AQ	Preziosi	Negotiating before filing.
11/17/00	Swisher American Legion - #671	6	Admin. Order/Penalty	WS	Tack	Compliance to be reviewed through 10/01. Penalty negotiations to begin after review.
11/17/00	McDonald Construction	2	Admin. Order/Penalty	WW	Tack	\$2,000 penalty settled for \$1,000; due 5/1/01.
11/17/00	James Nizzi d/b/a Alice's Spaghettiland	5	Admin. Order/Penalty	WS	Hansen	Settlement conference held 1/17/01. Settlement offer drafted. 2/14/01 – WS completed public notice of violations. 5/1/01 – Settlement offer discussed with attorney for WS. 5/22/01 – Counter offer by WS discussed with attorney. Letter to follow confirming discussion. 6/15/01 – Letter received from WS attorney regarding re-connection to Clive system.
11/20/00	Randy Golden d/b/a R. Excavating	4	Admin. Order/Penalty	WW	Tack	6/20/01 – Sent to DIA.
11/21/00	Knox Corporation	6	Admin. Order/Penalty	UT	Wornson	Partial compliance. Negotiate penalty.
11/22/00	Fansteel-Wellman Dynamics	4	Permit Conditions	SW	Tack	<b>Partial compliance achieved. Hearing to be continued to allow completion of settlement negotiations.</b>
11/28/00	AGP Ag Processing (Emmetsburg)	6	Permit Conditions	AQ	Preziosi	Negotiating before filing.
12/01/00	Postville, City of	1	Admin. Order	WW	Murphy	Mediation conducted 3/1/01. Compliance proposal submitted 4/2/01. Preliminary engineering report submitted 5/31/01.
12/05/00	Braddyville, City of	6	Admin. Order/Penalty	WW	Hansen	<b>4/30/01 – FO4 contacted regarding appeal and facility compliance with order. 5/10/01 – Sent to DIA to be set for hearing. 6/27/01 – Meeting with City officials and attorney regarding settlement. 7/17/01 – FO 4 letter to City giving City until late 10/01 to further comply with order. 7/23/01 – Conference call with ALJ. Hearing rescheduled for</b>

						<b>11/30/01. Petition due 11/5/01.</b>
12/11/00	Westbrooke Construction Co.	5	Admin. Order/Penalty	WW	Murphy	<b>Hearing set for 9/10/01.</b>
12/12/00	Keokuk Landfill, Inc. and Keokuk Contractors, Inc.	6	Admin. Order	SW	Tack	<b>Hearing continued to 10/29/01.</b>
12/12/00	University of Northern Iowa	1	Permit Modification Denial	AQ	Brabec	Facility intends to resubmit the application.
12/27/01	West Central Cooperative		Permit Denial	AQ	Preziosi	Negotiating before filing.
1/11/01	Guardian Industries	1	Permit Conditions	AQ	Brabec	Negotiating before filing.
1/22/01	Richard Bockes	5	Admin. Order/Penalty	AFO	Clark	<b>Amended order issued. Appeal withdrawal imminent.</b>
2/05/01	Fred Konrst	4	Admin. Order/Penalty	AQ/SW	Tack	<b>Compliance achieved. Penalty settled for \$2,500 to be paid in 5 payments.</b>
2/21/01	John Saathoff	2	Admin. Order/Penalty	AQ	Brabec	<b>FO reports that site is in process of being cleaned up. Unable to locate Mr. Saathoff to discuss penalty. Letter sent. He has until 8/31/01 to respond or will request hearing on penalty. He had done some clean-up, some remains.</b>
2/23/01	Don Anderson; Brentwood L.L.C.	5	Admin. Order/Penalty	WW	Murphy	Hearing continued to 7/23/01.
2/27/01	Floyd Kroeze	2	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
3/19/01	Sunnybrook Mobile Home Park	5	Admin. Order/Penalty	WW	Hansen	5/1/01 – FO5 contacted regarding settlement and compliance with order. 5/11/01 – Letter to City engineer regarding settlement of penalty upon completion of upgrade. 5/21/01 – City engineer letter stating they agree that Dept. could hold appeal in abeyance pending completion of upgrade. 6/01 – Dept. agreement to hold appeal in abeyance pending upgrade of facility.
3/22/01	Kay Enterprises, Inc.	1	Admin. Order/Penalty	AQ	Brabec	<b>Settled. Facility has signed a consent amendment with reduced penalty. Awaiting Director's signature and penalty payment.</b>
3/27/01	Carter Lake, City of	4	Admin. Order/Penalty	SW	Tack	<b>City is reviewing compliance options. Update due to Department 8/22/01.</b>
3/27/01	Bonaparte, City of	6	Permit Conditions	WW	Hansen	<b>3/28/01 – WW permits contacted for information on appeal issues.</b>

						5/8/01 – City Clerk and operator contacted concerning appeal. 6/14/01 – City council meeting to consider approval of preliminary plan of action. 7/11/01 – Dept. received preliminary plan of action from City; under review by WW permits section and FO.
3/28/01	Jefferson, City of	4	Admin. Order/Penalty	WW	Hansen	City to submit Plan of Action by 5/15/01. 5/01 – Plan of action received. 6/22/01 – Dept. settlement offer sent to City. 7/12/01 – Settlement offer received from City. 7/20/01 – Dept. accepted offer to do SEP in lieu of penalty. City to fund water quality monitoring project (\$1,500).
4/04/01	The Woods at Fox Hollow Homeowners Assn.	6	Permit Conditions	WS	Hansen	4/18/01 – Discussion with appellant regarding compliance status of WS and permit appeal. FO6 to meet with appellant. 5/23/01 – WS section supervisor attended meeting with residents to discuss appeal. 6/20/01 – Status report requested from WS section. 7/20/01 – Status report requested from WS section. 7/23/01 – Status report received; appeal still under review by WS section.
4/05/01	Gary Stutzman	6	Admin. Order/Penalty	AFO	Clark	4/17/01 – Settlement confirmed. 6/13/01 – Penalty paid. Case closed.
4/10/01	Casey's General Stores (Aplington)	2	Admin. Order/Penalty	UT	Wornson	Sent final notice to document compliance or referral to I & A.
4/13/01	West Central Cooperative	4	Permit Denial	AQ	Preziosi	Negotiating before filing.
4/16/01	Forest City Cow Palace and Chuck Wagon Café	2	Admin. Order/Penalty	WS	Hansen	4/10/01 – Discussion with café owner regarding appeal procedures and settlement. 5/18/01 – Facility sampled 1 <sup>st</sup> quarter 2001; returned to compliance. 6/20/01 – Dept. settlement offer sent to facility. 7/31/01 – Letter sent regarding resolution of appeal.
4/16/01	Richard Thompson; Thompson Auto Parts	5	Admin. Order/Penalty	SW/WW	Tack	Negotiating before filing.
4/27/01	Ag Processing Inc.	4	Permit Conditions	AQ	Preziosi	Negotiating before filing.
5/01/01	Onawa Country Club and Golf Course	4	Admin. Order/Penalty	WS	Tack	Negotiating before filing.
5/01/01	G. Michael Traul	6	Admin. Order/Penalty	UT	Wornson	Penalty waived. Case closed.
5/03/01	Harlan Municipal	4	Water Use Permit	WR	Clark	Hearing date set for 9/5/01.

	Utilities (Hallett)					
5/04/01	EnviroBate Management Services	5	Admin. Order/Penalty	AQ	Brabec	Meeting to occur in August.
5/07/01	James Kitchen; Kitchen Construction	1	Admin. Order/Penalty	SW/AQ/FP	Tack	Settlement offer sent 7/18/01. Counter offer received on 7/30/01.
5/07/01	McGill Asbestos Abatement	4	Admin. Order/Penalty	AQ	Brabec	Settled. 7/17/01 - Signed consent amendment received. Case closed.
5/08/01	JEMCO; Bud Nelsen	4	Admin. Order/Penalty	UT	Wornson	Compliance initiated. Negotiating penalty.
5/10/01	Hackert's Wood Products, Inc.	6	Permit Denial	FP	Clark	Negotiating before filing.
5/17/01	Plano, City of	5	Admin. Order	WW	Hansen	Negotiating before filing.
5/25/01	Shewry L.P.; Don Shewry	1	Admin. Order/Penalty	WW	Murphy	6/6/01 – Settlement proposal; on hold pending compliance determination.
5/29/01	Wayne Wheatley fdba Wheatley Auto and Truck Service	3	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
5/29/01	Burco Farms, Inc.	1	Admin. Order/Penalty	AFO	Clark	Negotiating before filing.
5/30/01	GMNW Investments, L.L.C.	4	Admin. Order/Penalty	WW	Murphy	6/22/01 – Letter sent regarding settlement; compliance visit will be made.
5/30/01	Fligg Corp. d/b/a Controlled Asbestos	6	Admin. Order/Penalty	AQ	Brabec	Settled. Facility has signed consent amendment and will pay a reduced penalty. Awaiting Director's signature and penalty payment.
6/08/01	Marshalltown, City of	5	Permit Conditions	WW	Hansen	Settled. Permit amendment to be issued.
6/13/01	Gene Moeller Oil Co.	2	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
6/18/01	Noble Ford Mercury	5	Admin. Order/Penalty	WW	Hansen	7/19/01 – Letter sent to company regarding appeal.
6/19/01	Eagle Investors, LLP d/b/a Manson Ampride	4	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
6/19/01	John Hoth	5	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
6/25/01	Used Tire Sales & Service, Inc.	2	Admin. Order/Penalty	SW	Tack	Discovery served by Dept. Response due 8/16/01.
6/27/01	Dostal Construction	5	Admin. Order/Penalty	AQ/SW	Tack	Settlement offer sent 7/18/01.
6/27/01	Tama Beef Packing,	5	Admin.	SW/WW	Hansen	Negotiating before filing.



	Inc.		Order/Penalty			
7/02/01	Bulk Petroleum Corp. d/b/a Citgo	5	Admin. Order/Penalty	UT	Wornson	New case.
7/02/01	Farmland Industries, Inc. (Manson Ampride)	4	Admin. Order/Penalty	UT	Wornson	New case.
7/02/01	James A. Clark	4	Admin. Order/Penalty	UT	Wornson	New case.
7/10/01	Midway Oil Co. (West Branch – 8603858)	6	Admin. Order/Penalty	UT	Wornson	New case.
7/10/01	Midway Oil Co. (Davenport – 8602775)	6	Admin. Order/Penalty	UT	Wornson	New case.
7/11/01	Lester Davis	5	Admin. Order/Penalty	AQ	Preziosi	<b>New case. Settlement close.</b>
7/13/01	Charles Hagedorn	3	Admin. Order/Penalty	AQ	Brabec	<b>New case. Meeting to be arranged.</b>
7/16/01	Midland Transportation Co.	1	Admin. Order/Penalty	UT	Wornson	New case.
7/25/01	James A. Six	6	Admin. Order/Penalty	AFO	Clark	New case.

During the period July 1, 2001 through July 31, 2001, 6 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
October	5(0)	1.4	1.4	4	0(0)
November	1(0)	10	0.001	1	0(0)
December	1(0)	1	.015	1	0(0)
January	5(0)	1.4	.323	3	0(0)
February	2(0)	1	.00035	0	0(0)
March	10(0)	1.4	.4199	1	0(0)
April	3(0)	1.1	0.057	1	0(0)
May	10(0)	14.51	0.047	5	0(0)
June	6(0)	2	0.049	0	0(0)
July	6(0)	1.2	0.069	1	0(0)
August					
September					

(numbers in parentheses for same period last year)

Note: data not previously collected,  
thus no data for the previous year

Total Number of Incidents Per Field Office This Period:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
2	0	0	1	3	0

Mike Valde reviewed the monthly reports for the Commissioners.

<b>INFORMATION ONLY</b>
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### **GENERAL DISCUSSION**

Kathryn Murphy asked what the status was for the Blue Stem appeal by the Thomas'.

Mike Murphy said he would be preparing a letter to refer the Thomas' to the Department of Inspection and Appeals.

Gary Priebe said he had heard from a former Commissioner who went to the Washington DNR office because he was going to build a cattle confinement unit. He asked them what he needed to do to meet the rules and regulations to build the unit. He was told by the DNR staff there, "We don't tell you what you have to do we just regulate you." He asked if there were brochures available.

Jeff Vonk said he was unsure of whether or not there were brochures but felt that the answer given to the gentleman was insufficient, he instructed Mike Murphy and Mike Valde to discuss this situation with the Washington field office.

Chris Gruenhagen said Farm Bureau worked with the Iowa Pork Producers and put together information materials that goes through the procedures step by step. She said DNR reviewed it for accuracy.

Jeff Vonk asked the Commission if they wanted to deal with the emissions issue at the September meeting, October meeting or wait until the Department receives the report.

Lisa Davis Cook said she felt waiting until February would be too long. She said she would like to see the Iowa Citizens for Community Improvement petition put back on the agenda for discussion.

Jeff Vonk said his recommendation is going to be that nothing happens until he finds out the results of the study being conducted by the colleges. He said the Department would put the petition back on the agenda for the October meeting but it was his feeling that it was the desire of Iowa Citizens for Community Improvement not to have their petition denied.

Lisa Davis Cook said there is growing sentiment of public outrage and if the Commission continues to put off making any decisions it will only increase their resentment.

**ITEMS FOR THE NEXT MEETING**

Jeff Vonk said he had received two offers to host a tour for the Commission if they decide to travel for their meetings. One was from the Des Moines Water Works and the other from the John Deere plant in Waterloo.

Discussion followed regarding the possibilities.

It was decided that the Commissioners would get in touch with Carol Arpy in the next couple of days to let her know their availability and the Department would make a decision from there.

**ADJOURNMENT**

With no further business to come before the Environmental Protection Commission, Chairman Townsend adjourned the meeting at 4:30 p.m., Monday, August 20, 2001.

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Jeffrey R. Vonk, Director

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Terrance Townsend, Chair

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Rita Venner, Secretary

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